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“THESE INDIANS HAVE EVERYTHING TO GAIN AND NOTHING TO LOSE:”
OSAGE TRIBAL SOVEREIGNTY, WEALTH DEVELOPMENT, AND EARLY
OKLAHOMA STATEHOOD

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A DISSERTATION APPROVED FOR THE
DEPARTMENT OF HISTORY

BY THE COMMITTEE CONSISTING OF

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To my parents –

MaMa, Daddy: I love you even if you don't want a little brown and white cat.

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Abstract

The events of the late nineteenth and early twentieth century fundamentally altered Osage life and politics. Tribal members navigated the shift from semi-annual buffalo hunts to a leasing economy that encompassed cattlemen, farmers, and oil barons. They drafted two constitutions, endured the dissolution of their tribal government, and negotiated critical treaties and allotment legislation that ultimately benefitted tribal members. Tribal members relied on their long history of negotiation and diplomacy to navigate rapid changes and the many assimilation efforts the federal government attempted to force upon them. By developing strong relationships between tribal members and beneficial alliances with external parties, the Osage Nation crafted a relational web to protect their people, their natural resources, and their sovereignty.

This study seeks to span the gap between studies of the Osages during the colonial and early statehood eras and the ever-popular oil boom of the early twentieth century. This crucial era demonstrates how the Osages utilized negotiation, diplomacy, and adaptation to navigate extreme change, land cessions, poverty, and attacks on their sovereignty. The Osages relied on their relational web, which supported them as they adapted to the quickly changing world around them and became central to the Nation's survival. Tribal leaders utilized negotiation and their allies to avoid becoming victims of land cession treaties and criminals who attempted to steal from the tribe. Ultimately, the Osages' relational web enabled their people to thrive during a period when tribal sovereignty continued to be assaulted from every angle.

Introduction

In 2012, Randy Tinker Smith, choreographer Jenna Smith, and composers Lou Brock and Joseph Rivers attended the premiere of their contemporary ballet *Wahzhazhe*. They were inspired to create a production featuring the sweeping history of the Osages through ballet to honor their heritage, and Maria and Marjorie Tallchief, famed ballerinas from Fairfax, Oklahoma.¹ The production featured close to fifty performers and represented dozens of Native Nations. Together, the performers told four hundred years of Osage history, starting with a drumbeat and a morning prayer, and concluded by honoring their continued culture as they “walk in two worlds.” Each of the ballet’s ten scenes depicts a pivotal moment in tribal development. The scenes include their life before white settlement, the treaty era, their relocation from their Kansas reservation to Indian Territory, boarding schools, oil development and the victimization of their people in the 1920s, and their service as warriors to protect their people. The ballet’s strength in storytelling has resonated with audiences since this opening performance. The performance actively demonstrates the Osage Nation’s emphasis on community, relationships, and culture as they navigated and adapted to challenges throughout their history. What is made abundantly clear through the descriptions of the scenes is that Osage peoples have actively fought for control of their narrative and asserted their sovereignty throughout their history.²

¹ Maria became America’s first Native American prima ballerina and Marjorie, the first Native American to be named *premiere danseuse étoile* at the Paris Opera. For additional information on the lives and careers of Marie and Marjorie as well as Rosella Hightower and Yvonne Chouteau see, Lili Cockerille Livingston’s *American Indian Ballerinas* (Norman: University of Oklahoma Press, 1997). Starlynn Raenae Nance, “Elizabeth Maria Tallchief,” *The Encyclopedia of Oklahoma History and Culture*, <https://www.okhistory.org/publications/enc/entry.php?entry=TA006>; Short, Candy Franklin, “Marjorie Louise Tallchief,” *The Encyclopedia of Oklahoma History and Culture*, <https://www.okhistory.org/publications/enc/entry.php?entry=TA007>.

² *Wahzhazhe: An Osage Ballet*; “Inside *Wahzhazhe*,” <https://www.osageballet.com/inside-wahzhazhe>.

Historians who have examined Osage history focused their attention on the colonial period and up to the 1860s or on the sensational events of the oil boom era in the 1920s. However, the history of the Osage Nation deserves a more comprehensive examination than it has received thus far. This study aims to fill the gap left in the standard narrative and focus much-needed attention on events from the 1860s up to 1930. The Osage Nation consistently asserted their sovereignty, negotiated a rapidly changing world according to their own beliefs and terms, and embraced capitalism for the benefit of the tribe's prosperity. Tribal members established trading partnerships and alliances with the French, Spanish, and then Americans, which provided them with insight into how Western cultures operated. By the mid-1800s, Osages demonstrated effective negotiations and diplomatic relationships, which ensured the success and survival of the Osage Nation during the tumultuous latter half of the nineteenth century. Negotiation, diplomacy, and crafting crucial alliances throughout the nineteenth and twentieth centuries protected Osage land, resources, and people throughout periods of ongoing attacks towards their tribal sovereignty.

The Osages tell of their descent to earth from the Sky World to become the *Wah-Zha-Zhe* or the People of the Middle Waters. After the creation of the earth and their societies, Osages lived in a world where animals spoke and provided them with everything they needed. However, the Osage people realized they wanted and needed more in their lives: they needed direction. After viewing the animals' certainty of their place in the world, tribal leaders decided to choose an animal as each clan's "guiding force, our beauty, our bravery, our courage, our part of the earth." Immediately clans sent runners to select the best and strongest animals as their "life symbols," but one was late. By the time he left, several others had returned, announcing what animals they had chosen. One selected the deer because it is "swift and sure," another chose the

buffalo, and another the eagle for its abilities as a “sharp-eyed hunter.” The delayed runner feared he might be too late and would not be able to choose a life symbol other than the “smelly skunk.”³

He took off into the forest and quickly ran into a spider web built across the trail. As the runner tried to pull the gossamer threads of webbing from his face, the spider explained why she should serve as the clan’s life symbol. The runner at first dismissed the “little black thing” but soon understood the wisdom and logic behind the spider as a life guide. The spider explained, “Where I am, I build my house. And where I build my house, all things come to it.”⁴ The runner agreed this was a valuable trait and returned to his people to convince them the spider was indeed an admirable life symbol.

The runner’s clan had misgivings, but they began to understand when they heard the runner’s impassioned argument. The runner stated that the seemingly majestic animals like the buffalo, deer, and eagle must roam looking for food and shelter, while other animals hide from hunters and predators. In contrast, the spider searched for the best place to live, spun her web, and waited for things to come to her. She did not go endlessly hunting for food or hiding from predators because she placed her home in a secure location. The runner stated with this life symbol, “No longer will we walk the earth with no direction. We will make our home in this sheltered valley where the rivers flow and the sun shines down on our people. The Wa-zha-zhe will live here in this good place and all things will come to us.”⁵

³ John Joseph Mathews, *The Osages: Children of the Middle Waters* (Norman: University of Oklahoma Press, 1961), 8; Archie Mason, Jr., “Osage Spider Story: An Osage Legend,” in *Spider Spins a Story: Fourteen Legends from Native America*, edited by Jill Max (Flagstaff: Rising Moon, 1997), 19-20.

⁴ *Ibid.*, 21.

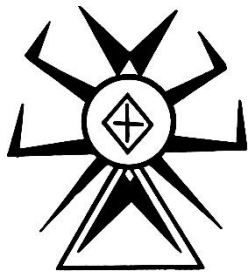
⁵ Mason, 22.

Like most oral traditions passed down via families and generations, the story of the Osage spider varies slightly depending on the storyteller, what clan they belong to, and what current or historical events shaped the individual's perspective. For example, John Joseph Mathews stated the primary reason the spider offered as to its ability to be a life symbol was that "where I build my lodge, all things came to it and broke their neck therein." In a third version, the spider emphasized learning patience, and if the Osages watch and wait and ultimately learn, they will become powerful. Yet another interpretation states the spider's web is a metaphor for a "snare that traps all living things and hold them here on earth until they die."⁶ One version is not more accurate than the other. Instead, when treated equally, these narratives demonstrate vital attributes of the Osage people. The first telling emphasizes the importance of community, grounding their history in a location or homeland, and peaceful relationships and trade, while the second version indicates the power of the Osage Nation, their ability and willingness to defend what is theirs, and to protect their people, identity, and culture. Taking these narratives and examining them collectively, one begins to see a fuller depiction of Osage life and values.

The Osages did not simply tell the story of the spider to their children and grandchildren and then forget about it through their daily lives. The spider remained an important symbol within the Osage Nation, certainly up until the early twentieth century. As Tai Edwards argues, tattooing became a ritual act that symbolized warfare and acts of bravery for male tribal members while females received "symbols of life and female creative power." Due to the cost of tattooing, more male Osages went through the process than women, but families who could

⁶ Mathews, 326; "The Spider and The People: An Osage Legend," First People of America and Canada – Turtle Island, <https://www.firstpeople.us/FP-Html-Legends/The-Spider-And-The-People-Osage.html>, accessed on November 9, 2018; Mason, 19.

afford the high cost of horses and buffalo robes extended the honor to their wives and daughters.⁷ Francis La Flesche described the tattoos of female tribal members as extending across the majority of the body and torso. The symbols depicted contained celestial bodies and animals extending from the torso and shoulders by stylized lines “to her wrist symboliz[ing] the ‘paths of animals,’ in reality, life descending from the sun and the stars to the earth” and terminated with a stylized representation of a spider on the back of the hand.⁸ (Figure 1) In addition to distinguishing the status and wealth of the individual and their family, the spider tattoo symbolized strength and protective qualities. Tribal members viewed these women as the “holy guardians of the lodges and symbols of protective motherhood.” Women with the spider tattoo took the responsibility of training the next generation of formidable warriors who maintained the



power and influence of the tribe as well as “keep the medicine strong.” The practice of actively tattooing young women with the symbol of the spider remained a significant part of Osage life until around 1900. The effects and influence remained visible until 1960, when only one woman left alive bore

the symbol.⁹

Fig. 1.1 A stylized “Tse'-xo-be” (Spider) commonly tattooed on the back of Osage women’s hands. From the Annual Report of the Bureau of American Ethnology to the Secretary of the Smithsonian Institute, 1915.

⁷ Tai S. Edwards, *Osage Women and Empire: Gender and Power* (Lawrence: University Press of Kansas, 2018), 104.

⁸ Francis La Flesche, “Researches among the Osage,” *Smithsonian Miscellaneous Collections* 70.2 (1919): 113.

⁹ The process of tattooing required a highly skilled artist utilizing a tattoo needle made from a wing bone. Wood from the sacred redbud was burned and the charcoal was used as the equivalent to “ink.” The ceremony required certain actions and procedures to be followed closely. Mathews tells the story of White Feather who cried out in a manner that was not approved, leaving a faint mark in the tattoo. In addition to sporting an imperfect tattoo, White Feather was never able to cook cornmeal without burning it, seemingly as a reminder of her deviation from the ceremony. Mathews, 325-326; Judith A. Franke, “The Gift of Spider Woman,” *The Living Museum* 61, no. 2 (1999), 7.

Tattoos served as a visible representation of fundamental beliefs in Osage society. The many tattooed lines present on women's bodies demonstrated their connection to the heavens and the earth, their "endless line of descendants," and their connection to one another.¹⁰ The constant reminder of the stylized black spider and the accompanying oral tradition emphasized the importance of relationships with their fellow tribal members. One of the lessons imparted through the spider story is that Osages are inherently connected and related to one another as tribal members. They utilized the image of the spider and its web to strengthen their internal tribal relationships. These relationships knit tribal members together to form a strong community which allowed them to work cooperatively to guarantee the survival of their people in difficult times. Their relational bonds also demonstrated strength and cohesion to non-tribal members when circumstances changed rapidly and threatened the Osage Nation's survival.

As tribal members built their internal relational web, they also created relationships with allies and trading partners who could aid them. When necessary and beneficial to the Osage Nation, they would invite external parties and non-Natives to join the tribe's external relational web. Non-Osages, such as traders, diplomats, lawyers, and even some government employees, remained vital to the tribe and were incorporated into the Osages' more extensive relational web even though they were not formally adopted into the tribal community. Taken together, the Osages' internal relationships and external alliances created an extensive relational web that demonstrated the Osage Nation's power. With this societal organization and reliance on one another, the Osages became a formidable presence and a powerful ally to neighboring tribes. The Osage Nation continually placed themselves in positions of power, whether that came from establishing their territory on valuable lands, negotiating the best trading arrangements, or

¹⁰ Edwards, 36.

dominating regional trade. Without the strength of the Osage's relational web, these accomplishments would have been much more challenging to establish and maintain, especially considering the Osages remained the dominant trading partners in the Missouri, Arkansas, and Oklahoma areas for close to 200 years.

Even though the Osage Nation carefully crafted their internal and external relationships forming their cohesive relational web, tribal members were never expected to maintain the same opinion or scope of obligations. While incorporated into the Osages' sphere of influence, individuals maintained their agency. At times, this process created tension and divisions between tribal members that required negotiation so any rifts that arose could be mended. If disagreements arose between the Osage Nation and external parties invited into the tribe's external relational web, the outside party stood to lose their position if they no longer supported the tribe or held ideas that ran counter to tribal interests. By structuring their society much like a web, tribal members supported one another. They formed alliances and relationships with non-Osages that strengthened their position during negotiations and treaty proceedings and even helped maintain their sovereignty in the face of Oklahoma statehood.

The Osage Nation utilized the internal relationships between tribal members and external alliances to navigate many changes throughout their history. Their relational web allowed the Osage Nation to face challenges and threats to their sovereignty from a position of strength. While there had been threats to the Osage Nation throughout history, never had their relational web been so threatened and ultimately strengthened than from 1860 to 1930. During this time, Osages signed two land cession treaties, relocated to Indian Territory, developed a leasing economy to support their people, defied the standard allotment proceedings, and incorporated oil and gas leasing into their economy, all while facing continual threats to their sovereignty from

white neighbors, government employees, eastern reformers, and Congress. The Osages' adaptation and ability to traverse this tumultuous period directly related to the close relational bonds between tribal members and the support of allies within their external relational web. As the world shifted around the Osages, the web adapted and weathered changes due to the Nation's ability to negotiate for the best possible arrangements through increasingly difficult circumstances.

This dissertation is, in part, a response to the frequently cited sensationalized stories of the Osages, the 1920s oil boom, and the criminals and murderers who targeted tribal members due to their wealth. Scholars and the general public tend only to know a version of Osage history that has been sensationalized, sold as true crime, or portrays Native peoples as victims that needed to be saved by white government officials. Additionally, the popular narrative states the Osage Nation gained all their wealth when white men discovered oil on the reservation. As a result, tribal members received untold fortunes but had no clear understanding of what had happened or how to manage their funds resulting in many "recklessly dissipate[ing] their enormous wealth."¹¹ Reverend J. A. Newsom believed the Osages, along with members of the Five Tribes, "had scampered for centuries in search of victims upon which he might wreak his lust for murder, and he never once dreamed of the vast coal beds and hidden oil fields that today pour millions into the coffers of civilized nations."¹² Statements like these, along with the usual narrative, remove the Osage Nation's sovereignty and autonomy and reduce them to character actors in their own story.

¹¹ W. David Baird, *The Osage People* (Phoenix: Indian Tribal Series, 1972), 1.

¹² J. A. Newsom, *The life and Practice of the Wild and Modern Indian: The Early Days of Oklahoma, Some Thrilling Experiences* (Oklahoma City: Harlow Pub. Co., 1923), 5.

Contemporary white Americans believed oil money would be better utilized if they themselves controlled the profits rather than the Osage Nation. As a result of racism and jealousy, contemporary journalists began to describe Osages as foolish, impulsive, and wholly unfit to manage their financial fortunes. Historian Terry Wilson mitigated the importance of Osage communal ownership of oil rights contending that the holding of lands in common was a native practice which “virtually assured the subsequent history of unwise spending and exploitation.”¹³ Even John Collier, a former Commissioner of Indian Affairs, stated the Osages had “no experience in money economy.” As a result, he stated that between 1915 and 1931, even though the Osage Nation received \$265,000,000 in oil royalties, around ninety percent “went ‘down the wind’ of ruined Osages and corrupted and corrupting whites.”¹⁴ These arguments constitute the primary tenants of the standard narrative of this time but ignore the long history of trading and exchange between Osages and Europeans and Euro-Americans that existed for generations.

The Osage Nation had long traded and engaged in wealth development in the late 1700s through trade with the French and Spanish. Tribal members sought opportunities to care for their people through trade and alliances, yet whites discounted wealth accrued through these avenues. Instead, contemporaries depicted tribal members as “children turned loose with a free hand in candy and toy shops” when the oil boom occurred.¹⁵ Accounts of the oil boom depict tribal members as caricatures purchasing foolish things simply because they did not understand the value of money or the intended purpose of luxury items, such as large homes, grand pianos, porcelain china, and silver cutlery. Instead of viewing Osages as using their wealth to participate

¹³ Terry P. Wilson, “Chief Fred Lookout and the Politics of Osage Oil, 1906-1949,” in *Indian Leadership* edited by Walter Williams (Manhattan, KS: Sunflower University Press, 1984), 52-53.

¹⁴ John Collier, *The Indians of the Americas* (New York: W. W. Norton, 1947), 244.

¹⁵ C. B. Glasscock, *Then Came Oil: The Story of the Last Frontier* (Indianapolis: Bobbs-Merrill Co., 1938), 267.

actively in the economic market according to their values, whites disparaged tribal members' actions. Once again, they attempted to demonstrate they would spend the money wisely if they had been the recipients instead of Native Americans. Anthropologist Jean Dennison argues that Osages who purchased luxury goods with their oil money created deeper entanglements within colonialism that threatened the very structure of Native life.¹⁶ Nevertheless, it is imperative to note that wealth was not new to tribal members. They had been declared the wealthiest nation per capita in the 1880s, before oil development, and had a long history of engaging in capitalism. Many of the absurd reports of Osage purchases, such as the many stories of tribal members purchasing cars only to abandon them when they ran out of gas, were grossly exaggerated and not an accurate depiction of Osage's actions.¹⁷

Simplification of Native peoples dates back at least to Alexander Pope's 1772 commentary on man's ways and how far he believed he had wandered away from God. Pope attempts to praise Native Americans' "simple nature" in *An Essay on Man* by stating, "Lo, the poor Indian! Whose untutored mind / Sees God in clouds, or hears him in the wind." Soon Americans began using the derisive nickname "Lo" to describe all Native peoples. By the early twentieth century, journalists reportedly used "Lo" as a "popular generic name for the Indians." White reporters specifically used the pejorative while discussing the Osages due to their seemingly bewildered state of having too much money to know what to do with. There are many problems with this interpretation, including racist views of white Americans as well as their

¹⁶ Alice Anne Callahan, *The Osage Ceremonial Dance I'n-Lon-Schka* (Norman: University of Oklahoma Press, 1990), 17; Jean Dennison, *Colonial Entanglement: Constituting a Twenty-First Century Osage Nation* (Chapel Hill: University of North Carolina Press, 2012), 104.

¹⁷ Workers of the Writers' Program of the Work Projects Administration in the State of Oklahoma, *Oklahoma: A Guide to the Sooner State* (Norman: University of Oklahoma Press, 1947), 40; Cato Sells, "Report of the Commissioner of Indian Affairs, Washington, D.C., September 30, 1920," in the *Annual Report of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1920), 41; Glasscock, 263; J. C. Hicks, "Auctions of Osage Oil and Gas Leases," M.A. Thesis (Norman: University of Oklahoma Press, 1949), 74; E. A. Burbank, *Burbank Among the Indians Told to Ernest Royce*, Frank J. Taylor, ed. (Caldwell, ID: Caxton Printers, 1944), 198;

willful ignorance of Native peoples and their cultures. It is important to note that the Osages refer to themselves as “Little Ones” due to their humility and recognition that they cannot understand *Wah’Kon-Tah*, the creator. These beliefs should not be confused with the derogatory term “lo” since they do not believe themselves to be insignificant or unable to exert their own power, but rather a sign of respect. In fact, Osage history is marked with effective negotiations with Americans and other tribal nations.¹⁸ During the Canville Treaty negotiations to relocate to Indian Territory, tribal members used their previous experiences and their relationships with external parties, particularly lawyers they incorporated into their external relational web, to place themselves in a position of power and financial stability. While these did not manifest immediately after the treaty proceedings concluded, the provisions in the treaty helped establish the Osage Nation after they relocated to their new reservation.

Despite tribal leaders continually working to protect and provide for their people during the 1860s to 1930, Americans often dismissed the Osage Nation. In the eyes of white neighbors, the Osages were poor, and only by good fortune did they become wealthy. The idea of a once poor tribe, which settled on what many whites considered some of the “most useless land in all the Indian country” had become “fabulously wealthy” overnight, appealed to many white Americans who had fallen under the spell of other mineral rushes. Only this time, people wondered why wealth blessed those they considered “primitive peoples” and not the hard-working white Americans as portrayed in the *Ragged Dick* series written by Horatio Alger during the Gilded Age. Many white Americans rushed to oil boom towns seeking jobs that would allow them to escape the drudgeries and poverty of life to gain their fortunes, which

¹⁸ Alexander Pope, “An Essay On Man,” Epistle I, line 95-96; “Why is an Indian Called Lo?” *The American Indian* 2, no. 12 (September 1928): 5; Mathews, *The Osages*, 9; Randy Tinker Smith, dir, *Wahzhazhe: An Osage Ballet* (Tulsa, OK: Arts and Humanities Council of Tulsa, 2012) DVD.

presented an additional layer of challenges for the Osages as whites challenged the Nation's sovereignty.¹⁹

Discussions of the Osage oil boom can typically be categorized in two ways: those who believe either oil was a blessing to the tribe or a curse. Contemporary journalists started debating the question in the late 1800s, and discussions reached a fever pitch in the 1920s but have remained present in the literature to this day. Throughout these studies, tribal members are frequently omitted from the central narrative in favor of sensationalized crimes, statistics of oil production, and white oil barons. By not studying the sovereign Osage Nation directly, it seems as though tribal members sat idle and watched wealth accumulate in their accounts. This dissertation places tribal members in the middle of their story and demonstrates how they protected and asserted their sovereignty throughout the tumultuous decades before and during oil production.

Authors who argue the oil discovery benefited tribal members tend to focus on the money and development that came to the area. Like Robert Gregory's *Oil in Oklahoma*, some accounts portray oil producers as enterprising individuals who pushed civilization and modern technology into the rural prairie.²⁰ C. B. Glasscock called oil money a "prize" since it pulled the Osages out of poverty.²¹ At the same time, Clyde Davis argued, "fate played one real joke on the intruding whites of Oklahoma [since oil] had a predilection for coming in on Indian lands and pouring millions into the laps of bewildered aborigines."²² Philip Dickerson's early *History of the Osage Nation* focused on the developing cities and industries and how mixed-blood Osages capitalized

¹⁹ Glasscock, 131; Don Whitehead, *The FBI Story: A Report to the People* (New York: Random House, 1956), 114; Horatio Alger, Jr. *Ragged Dick, or Street Life in New York with the Boot-Blacks* (Philadelphia: J. C. Winston, 1895); B. A. Botkin, ed. *A Treasury of Western Folklore* (New York: Crown Pub. Inc., 1951), 278.

²⁰ Gregory, *Oil in Oklahoma* – full citation if needed.

²¹ Glasscock, 147.

²² Clyde Brion Davis, *The Arkansas* (New York: Farrar & Rinehart, 1940), 196-197.

on the influx of wealth to rise to prominence.²³ Studies written after the 1920s mention the crimes and the many unsolved murders against tribal members during the oil boom, but some accounts, even those written into the early 2000s, dismiss these narratives and reduce the well-documented cases of fraud and graft perpetuated against tribal members as nothing more than a slight inconvenience or a “lesson for all Oklahoma Indians.”²⁴

Other authors examine the oil boom on the Osage Reservation in terms of the land or through striking visual evidence via contemporary photographs. Brian Frehner’s *Finding Oil* is an excellent example of a well-researched environmental history of the oil boom exploring the development of petroleum geology. However, before his study, many authors romanticized the discoveries of oil gushers or emphasized the danger and spectacle of wells raging out of control or engulfed in flames.²⁵ The land itself became a character, leading several historians, journalists, and others to become infatuated with the “Enchanted Hills,” as Deana Olcott entitled her booklet of romanticized tales about the Osages.²⁶ At least three pictorial histories and coffee table books demonstrate the allure of photographic evidence. Kenny Franks, Paul Lambert, and Carl Tyson published their photographic history of the various Oklahoma oil booms with some contextualization of the events. However, they primarily emphasized the promising new industry, the “heroic” roughnecks, and the citizens of boomtowns who frequently were mired in mud and oil after gushers. Larry Lucas, et al. published documentary photographs from the *Pawhuska Journal-Capital*, but much like Franks, rarely focused on the Osages and how they

²³ Philip Dickerson, *The History of the Osage Nation* (n.p.: n.p., 1906).

²⁴ Hester Brown, “Osage, Oil, and Oklahoma: Boom or Bust,” in *Images, Imaginations, and Beyond: Proceedings of the Eighth Native American Symposium, November 4-6, 2009*, ed. Mark B. Spencer (Durant: Southeastern Oklahoma State University, 2010), 156; Larry Schweikart and Bradley J. Birzer, *The American West: A Wiley Desk Reference*, (Hoboken, NJ: John Wiley & Sons, Inc., 2003), 464.

²⁵ Brian Frehner, *Finding Oil: The Nature of Petroleum Geology, 1859-1920* (Lincoln: University of Nebraska, 2011). For a typical example of the coverage of oil wells, see Gregory’s discussion of the Mary Sudik well which ran out of control for twelve days in Oklahoma City. Gregory, 84-85.

²⁶ Deana Olcott, *The Enchanted Hills* (Pawhuska, OK: The Osage Printery, 1948).

negotiated the oil boom. Annick Smith's *Big Bluestem* traces the history and preservation of the sweeping mixed-grass prairies on the Osage reservation and provides some essential contextualization of the period and the Osages and their history. Still, the Osages themselves and particularly discussions of their sovereignty take a back seat to the expansive vistas of the prairie.²⁷

Perhaps the most glowing assessments of the oil boom come through biographies of oil barons who made their fortunes during the early twentieth century. These narratives are particularly triumphant in tone and often detail the generosity of oil barons, such as William G. Skully, who funded local communities, and Waite Phillips's and Thomas Gilcrease's contributions to the fine arts.²⁸ As discussed in detail in chapter five, oil producers cared deeply about the profits they could make, but they did not concern themselves with the implications of their industry on the Osage Nation. The Foster family, which secured the first oil lease on the Osage Reservation, attempted to force the approval of their initial blanket oil lease, which went directly against the wishes of the Tribal Council and the signed protest of dozens of tribal members. William Donohue Ellis's corporate history of the Fosters traces the development of the Phenix Oil Company and the Indian Territory Illuminating Oil Company but glosses over the corrupt dealings of the Fosters and instead celebrates the determination and enterprising spirit of the East Coast family.²⁹ Removing the Osage Nation from the center of their story and focusing on profit made it is easy for authors to consider the oil boom a success. Yet, theirs is a simplified

²⁷ Kenny A. Franks, Paul F. Lambert, and Carl N. Tyson, *Early Oklahoma Oil: A Photographic History, 1859-1936* (College Station: Texas A&M University Press, 1981); Larry Lucas, et. al., comp. *Oil in Osage County* (Pawhuska: Pawhuska Journal-Capital, 1996); Annick Smith, *Big Bluestem: Journey Into the Tall Grass* (Tulsa: Council Oak Books, 1996).

²⁸ Gregory, 45-51, 30-31, 59-69.

²⁹ William Donohue Ellis, *Out of the Osage: The Foster Story* (Oklahoma City: Western Heritage Books, 1993).

version of events that fails to consider the nuances and multitude of experiences of tribal members.

Authors who considered oil development a curse for generations of Osages believed tribal members did not have the power to change their fates as they were “hamstrung” between a paternalistic federal government and businessmen since both parties vied for control over the tribe’s mineral-rich lands.³⁰ Historian Angie Debo primarily researched corruption and attacks on the sovereignty of the Five Tribes in her monograph, *And Still the Waters Run*. She argued tribal nations “were unfamiliar with deeds, mortgages, and oil leases and distrustful of the white man’s law. Thus they were stripped of their property through deception, forged instruments, kidnapping, even murder, and the plundering of estates by guardians through the probate courts.”³¹ This quote reflects a more extensive series of threats directed at all Native peoples in Indian Territory and later Oklahoma. However, Debo’s declension narrative negates the long history of the Osage Nation, their experience protecting their sovereignty, and the extensive economic ventures and creation of a leasing economy with neighboring whites.

Some authors who considered oil a curse for the Osage Nation emphasized corruption among guardians, such as Debo, or the degradation of the land, such as Lon R. Stansbery, who mourned the loss of the 3-D cattle ranch, but the vast majority of studies focus on a series of violent crimes that occurred at the height of the oil boom. Due to the rapid influx of wealth, whites came to the Osage Reservation to procure oil money for themselves. Many worked in the oil fields or boom towns, but some committed crimes to swindle Osages. Merchants used price gouging and “special” prices just for tribal members, government-appointed guardians stole

³⁰ Sherry L. Smith and Brian Frehner, editors, *Indians & Energy: Exploitation and Opportunity in the American Southwest* (Santa Fe: School for Advanced Research Press, 2010), 8.

³¹ Angie Debo, *Oklahoma: Foot-Loose and Fancy-Free* (Norman: University of Oklahoma Press, 1949), 42-43.

money from their “incompetent” wards, thefts and burglaries increased, and mysterious deaths and poisonings became all too frequent. By far, the most well-represented example of crime during the Osage oil boom centers around the individual William K. Hale. Hale schemed and planned for his two nephews to marry Osage women so they could inherit multiple headrights or shares of oil money. Hale hired hitmen and criminals to murder specific family members, so eventually, only the surviving sister, Mollie Burkhart, held nearly a dozen headrights. Fortunately, Hale and the two nephews were arrested and eventually convicted in 1929 before they succeeded in executing their complete plans. Ultimately Hale’s murder plot has become the most frequently recited portion of Osage history.

The exaggerated accounts of Osage wealth captured contemporaries and historians’ imagination, but the allure of unsolved and multiple murder plots appealed to even more readers. Most authors who address this period of Osage history capitalized on the tragic events and the untimely deaths of Osages to craft a gripping narrative, such as in the case of Arthur H. Lamb and Lawrence J. Hogan. While Hogan focused his attentions on the legal proceedings and quoted large portions of testimony to emphasize the investigation conducted by the Bureau of Investigations agents and the actions of the prosecutors, most accounts of the events depict Osages as victims who lived in fear for their lives until white government officials came to arrest the perpetrators. The language of victimhood permeates Lamb’s vignettes of the *Tragedies of the Osage Hills* as he, among others, described the 1920s as “The Reign of Terror.”³² The

³² Unidentified clippings, n.d., Thomas McKean Finney and Frank Florer Finney Collection, Box 1, F 15, Western History Collections, University of Oklahoma; “Courts End Osage Indian ‘Reign of Terror,’” *New York Times*, January 17, 1926; “Cattleman Gets Life Sentence,” *The Brownsville Herald*, October 30, 1926; “Confession Aids Probe of Slayings,” *The Evening Star*, June 10, 1926; “U.S. To Rush Trial of ‘King of Osages,’” *The Evening Star*, July 5, 1926; “Oklahoma Trials to be Continued,” *New Britain Daily Herald*, June 10, 1926; “Famous ‘Two Gun’ Officer is Shot,” *New Britain Daily Herald*, December 6, 1926; “Slayer is Given Life,” *The Indianapolis Times*, June 21, 1926; “Wealthy Rancher is Found Guilty,” *New Britain Herald*, October 30, 1926; “Osage Murders Recalled,” *The Evening Star*, December 7, 1926; “William Hale Convicted of Osage Murder,” *The Bismarck*

events of the period were indeed frightening and tribal members feared for the safety of loved ones. However, using this type of terminology and focusing on the negative aspects of Osage history, such as white squatters trying to steal their lands, the many land cessions forfeited by the tribe, as well as assimilation efforts by the federal government, reduces the history of the Osage Nation to one of victimhood.

The “Reign of Terror” interpretation centers on the murders committed by William Hale and his criminal associates and implies that the Osage Nation experienced nothing but murders among their people. These murders gained national media attention, allowing journalists to report other crimes committed against tribal members, such as theft, swindling, misuse of tribal funds, and corrupt Indian Agents. Narratives of this nature confirmed reader’s opinions that Indian Territory and the West as a region was lawless and Native peoples were helpless to protect themselves without law and order imposed by the federal government. This popular framing truncates Osage history to a brief period and emphasizes the most infamous chapter of their history while ignoring and dismissing tribal sovereignty. By ignoring the Osages’ commitment to developing relationships between tribal members and external allies via their relational web, these reductive narratives imply tribal leaders could not effectively protect their people. During the oil boom, tribal leaders and council members, including one of the longest-serving Principal Chiefs, Fred Lookout, sought answers and solicited advice and aid from people

Tribune, October 30, 1926; “Hale is Convicted in Osage Slayings,” *The Evening Star*, October 30, 1926; “Osage Indian Cases Called,” *The Brownsville Herald*, July 26, 1926; “Osage Trial Opens,” *The Indianapolis Times*, October 20, 1926; “Murder Quiz Halted,” *The Indianapolis Times*, January 18, 1926; “Many Murders in Osage Hills Are Unsolved,” *The Bismarck Tribune*, January 21, 1926; “Selection of Jury to Hear Hale Case, On,” *Douglas Daily Dispatch*, July 27, 1926; “Stands by Father as Trial Nears,” *The Key West Citizen*, June 26, 1926; “Osage Jury Still Out,” *The Indianapolis Times*, August, 23, 1926; “Reign of Terror For Indians To End,” *The Evening Star*, May 21, 1926; “Wife’s Fear That Paroled Husband Might Holdup Bank,” *Douglas Daily Dispatch*, January 22, 1927; “Hale to Face Third Trial,” *The Brownsville Herald*, October 1, 1928; “Life Sentence Lifted From Rich Cattleman in Spectacular Fight,” *Brownsville Herald*, May 6, 1928; “Cattle King Faces New Accusations,” *The Evening Star*, November 2, 1928; “Hale Again Found Guilty of Murder,” *The Sunday Star*, January 27, 1929; Gene Curtis, “‘Reign of Terror’ Kills Osage Family,” *Tulsa World*, November 26, 2006.

outside the nation. Osages retained their tribal sovereignty throughout this period and relied on their allies and relational web to stifle crime and attacks on their citizens. Nevertheless, many authors, particularly journalists, tend to ignore these facts and instead focus their attention on the criminals themselves.

The most popular accounts of the murders that occurred among the Osages argue the “reign of terror” ended when the Bureau of Investigations, now known as the Federal Bureau of Investigations, arrested William Hale and his co-conspirators. This account of events implies tribal members were victims who needed to be rescued by the gallant “white savior” that was the federal government. Don Whitehead’s *The FBI Story* includes a discussion of the murders as he illustrated how J. Edgar Hoover, the newly appointed acting director, reinvented the Bureau of Investigations. Whitehead reduces the role of the Osages in their own narrative while focusing on the standardization of federal investigations. Whitehead succeeds in tracing the FBI’s evolution from its origins to the 1950s, but in the process, he marginalized the Osage Nation and their efforts to fight crime on their lands. The motion picture of the same name, released in 1959 and starring James Stewart, further popularized this narrative. Whitehead’s description of Hale’s crimes colored all future studies of the Osage oil boom era.³³ This is abundantly clear in the most recent publication, *Killers of the Flower Moon* by David Grann.

Grann retells the Osage murders while focusing his attention on the Bureau of Investigations Agent Tom White. He argues that the investigation and subsequent arrest of William K. Hale marked the actual birth of the FBI. As such, most of the book describes the investigators’ actions and the several trials of Hale and his nephews. The Osages have more agency in Grann’s rendition than in Whitehead’s, but with limited contextualization and the

³³ Whitehead; Mervyn LeRoy, *The FBI Story* (New York: Mervyn LeRoy Productions, Inc., 1959).

focus on the murders and fear within the community, tribal members are still portrayed as nearly helpless victims. In a similar set of circumstances to Whitehead's book, Grann's narrative will also be a major motion film produced by Martin Scorsese, starring Leonardo DiCaprio and Robert De Niro. Once again, the Osage Nation has been and will continue to be introduced to general audiences through a reductive telling of one of the most devastating parts of their history.³⁴

True crime narratives and even fictionalized renditions such as *The Grey Horse Legacy*, *Black Gold*, *Yellow-Flower Moon*, and *The Years of Fear* sensationalize one portion of Osage history while ignoring the efforts of tribal leaders and community members to stop the crime against their people. Tribal members relied on their internal relationships and external alliances to seek answers and solicit advice, and aid in ending the violence. The Tribal Council persistently appealed to federal officials. Without their efforts, the crimes would likely have continued. Additionally, the Osage Nation used their relational web and their allies to enact crucial changes in federal law, which addressed some particularly lenient laws that allowed for power and money to slip away from tribal members via marriages throughout the early twentieth century.³⁵

Discussing the "reign of terror" or the oil boom period without historical context remains a sensitive subject and does a disservice to the Osages. William Hale's crimes have received so much attention; it is easy to assume that the Osage Nation returned to normalcy after his arrest. However, criminals continued their attempts to steal tribal member's money, land, and

³⁴ David Grann, *Killers of the Flower Moon: The Osage Murders and the Birth of the FBI* (New York: Doubleday, 2017); Martin Scorsese, *Killers of the Flower Moon*, pre-production as of 2020.

³⁵ John Hunt, *The Grey Horse Legacy* (New York: Bantam Book, 1970); Matt Braun, *Black Gold* (New York: St. Martin's Press, 2004); Jean Hager, *Yellow-Flower Moon* (Garden City, NY: Doubleday, 1981); Fred Grove, *The Years of Fear* (Waterville, ME: Five Star First Edition Western Series, 2002).

headrights. Louis F. Burns recalled, “I don’t know of a single Osage family who didn’t lose at least one family member because of headrights.”³⁶ These traumatic events continue to reverberate through the Osage Nation to this day. Tribal members remain hesitant to speak about their history due to the increased attention David Grann’s book had incurred. Employees at the Osage Nation Museum stated their display of the oil boom and the murders reflected “the darkest period of our history.” Dennis McAuliffe, a journalist with Osage ancestry, has written extensively about this period in relation to his family. His two monographs, *The Deaths of Sybil Bolton* and *Bloodland*, discuss his grandmother’s murder and his investigation into who could have committed the crime and why. While he initially suspected his white grandfather, he later determined the case would remain unsolved, much like untold numbers of murders and suspicious deaths among the Osages. McAuliffe’s narratives relate the events in a raw and emotional manner due to his close personal connection to the events. The height of the oil boom occurred one hundred years ago, but the repercussions of the tribe’s wealth have continued to affect present-day tribal members. As such, it is critical to discuss the oil boom era with sensitivity, so the criminals and the events of the “Roaring Twenties” are not further sensationalized.³⁷

There are some appropriately nuanced discussions of the Osage Nation during the oil boom period. Only a handful of these studies devote their attention solely to the Osage Nation. John Joseph Mathews, an Osage author, wrote several books about his people throughout his life. His definitive narrative, *The Osages*, remains a critical work in the field as he incorporates government reports and oral narratives to form a fuller depiction of Osage life, culture, and

³⁶ Louis Burns in Xavier and Ball.

³⁷ Dennis McAuliffe, *The Deaths of Sybil Bolton: An American History* (New York: Times Books, 1994); Dennis McAuliffe, *Bloodland: A Family Story of Oil, Greed and Murder on the Osage Reservation* (San Francisco: Council Oak Books, 1999).

history. To see the many conflicting feelings about natural resource extraction and the resulting oil boom wealth, one needs to look no further than Mathews. In *The Osages*, Mathews discusses the oil boom as a profoundly tragic period for tribal members as they tried to counteract the criminals who descended on their reservation. Yet in his monograph, *Life and Death of an Oilman*, Mathews expressed great fondness and respect for E. W. Marland, who drilled extensively throughout the Osage Nation. Tribal members appreciated the wealth that came from oil development, but the crimes, disruption of their way of life, and destruction of the land caused some Osages to regret the repercussions of their actions.³⁸

Terry Wilson's *The Underground Reservation* is the only full-length monograph specifically focused on the Osage's mineral development. Wilson relates how the Osages retained their culture despite white swindlers and murderers and the presence of corrupt guardians. Wilson begins his discussion with the discovery of oil in 1895 and focuses his attention on the rapid increase of wealth among tribal members. By 1917, an average Osage family received an annual income between \$5,000 to \$10,000 just from oil royalties.³⁹ Wilson argues that with the dramatic increase in wealth, Osages negotiated between two worlds: their traditional beliefs and culture and western lifestyles. He utilized the famous stories of tribal members hiring cars to drive them to a store a block away and building expensive homes to contrast with Osages hosting large feasts for neighbors and friends and continuing to live in huts on the lawn despite their wealth. Wilson attempts to demonstrate how tribal members blended cultural elements, but his monograph ultimately follows the usual declension narrative as he ends

³⁸ Louis Burns's *A History of the Osage People*, much like Mathews's work, relates the sweeping history of the Osage Nation. However, this monograph is cursory in nature and is frequently inaccurate. As a result, this particular book has not been consulted for this dissertation. It is the opinion of the author that Mathews's *The Osages* should continue to be referred to as the definitive Osage history up to the 1940s. Mathews, *The Osages*; John Joseph Mathews, *Life and Death of an Oilman: The Career of E. W. Marland* (Norman: OU Press, 1951).

³⁹ Terry P. Wilson, *The Underground Reservation: Osage Oil* (Lincoln: University of Nebraska Press, 1985), ix, 100-101, 105.

with the federal government's decision to declare Osages "incompetent" since they spent their money "recklessly." Under the direction of the Office of Indian Affairs, all tribal members received a guardian until they had petitioned for their "certificate of competency." Regardless of these "protections," whites continued to come to the Osage Nation for the sole purpose of obtaining oil money.⁴⁰

Too often, the Osage Nation's mineral development is discussed as a singular incident that does not relate to broader themes in American Indian history. Alexandra Harmon's *Rich Indians* and Donald Fixico's *The Invasion of Indian Country in the Twentieth Century* provides two exceptions. Harmon utilizes seven case studies of wealth from the colonial era to the twentieth century to argue against common stereotypes of Native peoples. Wealthy Native Americans were not simply lucky to live on mineral-rich lands, nor were they lazy and poor. Instead, she argues that Native peoples worked, participated in capitalism, and interacted with whites to cultivate their wealth for their benefit. Her chapter discussing wealth garnered during the oil boom in the 1920s argues that Osage leaders wanted to exercise their sovereignty and control their money rather than be placed under the direction of a guardian. However, Congress passed laws forcing tribal members to remain in an "infantile legal status" as whites believed they could not be trusted to spend their money "wisely."⁴¹ Harmon argues historians should look past stereotypical views of Native wealth and white greed to place Indians as key actors in both American and economic history.

The Invasion of Indian Country in the Twentieth Century by Donald Fixico also takes a broad approach to tribally controlled natural resources and how Native peoples balanced their

⁴⁰ Wilson, 128-130, 134-135, 138.

⁴¹ Alexandra Harmon, *Rich Indians: Native People and the Problem of Wealth in American History* (Chapel Hill: University of North Carolina Press, 2010), 5, 172-173.

traditional beliefs and culture within capitalism. He argues that capitalism, originally a Eurocentric idea, exploits natural resources from tribes. In response, tribal nations adopted “modern corporate strategies to ensure the survival of their nations and people.” To demonstrate this phenomenon, he investigated five types of natural resources, including oil, to show how these corporate strategies affect individuals, families, clans, communities, nations, and spirituality. Fixico utilizes common incidents of Osages using their wealth, such as driving luxury cars, hosting feasts for their loved ones, partying, and traveling. His connection of capitalism, exploitation of resources, and adaptation to a rapidly changing world allows for a broader understanding that the Osage oil boom was unique in many ways but had similarities with other tribes with abundant natural resources.⁴²

There are apparent gaps in historians’ treatment of Osage history. Several valuable studies focus on the Osages’ adaptation to trade with European explorers and later colonial entities, including the French, Spanish, English, and Americans. Willard Rollings’s study of the Osages during the earliest European contact through the 1700s crafts a strong argument that the Nation “controlled the prairie-plains and created a prairie hegemony.” Osages accomplished this by maintaining a powerful presence in a strategic location that allowed them to control and restrict access of other tribes to European trade goods. As a result, the Osages became the gatekeepers to the west by controlling the waterways along the Missouri, Arkansas, and Red Rivers, guaranteeing cooperative trade with Europeans, as well as limiting the ability of western tribes to trade and accumulate firearms.⁴³ Gilbert Din and A. P. Nasatir’s *Imperial Osages* focus on the tribe’s interactions with Spanish emissaries. They also demonstrate Osage control of the

⁴² Donald L. Fixico, *The Invasion of Indian Country in the Twentieth Century: American Capitalism and Tribal Natural Resources*, 2nd ed. (Boulder: University Press of Colorado, 2012), x, 27-49.

⁴³ Willard H. Rollings, *The Osage: An Ethnohistorical Study of Hegemony of the Prairie-Plains* (Columbia: University of Missouri Press, 1992), 7-8.

region but delve into the conflicts that arose with the Spanish, who demanded control of the area. Spanish colonists found the Osages “vexatious” since they insisted on negotiating on their terms and controlling trade throughout the region.⁴⁴ These studies trace a pivotal time in Osage history but come to a close soon after American independence, just when the Osages begin to sign key treaties ceding millions of acres of their lands.

Kathleen Duval’s *The Native Ground* continues the Osages’ narrative after the American Revolution. She discusses the beginning of Osage land cessions due to Cherokee tribal members moving west to avoid the pressure of American settlers taking their lands in the Southeastern United States. The Osages fought for their lands within what is now Arkansas but ultimately shifted west to Oklahoma and Kansas and north to Missouri.⁴⁵ Kristie C. Wolferman’s study of *The Osage in Missouri* details the land cessions of the Osages and the importance of Fort Osage, located along the Missouri River, as a trading post. Wolferman argues the Osages could never understand the lifestyles of whites, yet they had become so altered by colonial and American trade they lost many of their traditions, beliefs, way of life, and land holdings.⁴⁶ In opposition to Wolferman, Tai Edwards provides a unique look at Osage history by focusing on the Osage Nation’s power through the empire they cultivated from the colonial era to the 1860s. She argues that as the Osages became an empire, women held equally valuable positions in society as Osage men. Edwards effectively demonstrates that gender served a critical function in maintaining culture and lifestyles as tribal members adapted to their rapidly changing world and resisted colonization efforts to reduce their power. While this monograph provides crucial

⁴⁴ Gilbert C. Din and A. P. Nasatir, *The Imperial Osages: Spanish-Indian Diplomacy in the Mississippi Valley* (Norman: University of Oklahoma Press, 1983), 87, 121.

⁴⁵ Kathleen Duval, *The Native Ground: Indians and Colonists in the Heart of the Continent* (Philadelphia: University of Pennsylvania Press, 2006).

⁴⁶ Kristie C. Wolferman, *The Osage In Missouri* (Columbia: University of Missouri Press, 1997).

information about the inner workings of the Osage Nation, Edwards stops the narrative with the signing of the Drum Creek Treaty, ceding their lands in Kansas and moving to Indian Territory.⁴⁷ Each of these monographs retells Osage history in a declensionist fashion since they end just as the tribe faced considerable and seemingly untenable changes coupled with significant loss of land. These narratives make it appear as though the Osage Nation adapted to the changing world around them to a point but then succumbed to the pressure. Rather, tribal members relied on their relationships with allies to support them through the many changes they faced. Osages continually adjusted their relational web to ensure their people's survival and culture as their world shifted.

The period between the late 1800s to the early 1900s oil boom on the Osage's Indian Territory reservation is not widely studied. Most narratives about this period are primary sources from whites who moved to the area to farm or ranch, operate trading posts and general stores, or visited the area as tourists.⁴⁸ Historians who have discussed this period typically mention the tribe's removal to Indian Territory, and in a couple of instances, the grazing leases the tribe negotiated with ranchers during the 1870s and 1880s.⁴⁹ However, most studies tend to ignore this period in favor of the more compelling story of the oil boom. Discussions of Native Nations within Indian Territory just before statehood is often fraught with questions of legality and a healthy dose of legislation and court documents. Legislation typically differed from tribe to tribe, with the Five Tribes and the Osages subjected to specific legislation. Frequently Congress

⁴⁷ Tai Edwards, 123-125.

⁴⁸ Ellsworth Collings, *The 101 Ranch* (Norman: University of Oklahoma Press, 1971); Maude Cox, *As It Was: A History of Osage County, Oklahoma*, (2015) Kindle edition; Burbank; Arthur H. Lamb, *Tragedies of the Osage Hills, As told by The "Sage" of the Osage* (Pawhuska, Oklahoma: The Osage Printery, 1935); Newsom; Olcott; Lon R. Stansbery, *The Passing of 3-D Ranch* (Tulsa: Buffalo-Head Press, 1966); Wahshowahgaley, *Pioneer Days with the Osage Indians, West of '96* (Bartlesville, OK: T. M. Finney, 1925); Dickerson.

⁴⁹ Robert M. Burrill "Grassland Empires: The Geography of Ranching in Osage County, Oklahoma, 1872-1965" (Ph.D. diss., University of Kansas, 1970); Smith, *Big Bluestem*.

passed legislation targeting only the Osage Nation since they owned their land in fee simple rather than residing on federal trust land. This status made the Osage Nation exceptional in many ways, but the late 1800s does not lend itself to easy research due to the specific legislation governing the tribe. As a result, many studies simply skip this period and begin discussing the oil boom of the early 1900s.

The most well-represented period of Osage history in the scholarly and journalistic literature is the oil boom in the 1910s and 20s. A few monographs discuss how oil development began among the Osages, such as H. Craig Miner's *The Corporation and the Indian*, but most analyses simply ignore Osage history prior to 1898 when the first blanket oil lease was signed.⁵⁰ Many discussions of the oil boom highlight the statistics of barrels of oil yielded, the number of oil workers in the field, the value of the oil produced, and the number of royalties paid to tribal members. The statistics illustrate the dramatic environmental changes the Osages had to adjust to, but they do not reveal the effects of the oil boom on the Osage Nation.

Due to the emphasis on the crimes and murders committed against tribal members, few studies contextualize the events by discussing the Osages' rich history or engage with the lasting effects of these tumultuous years. One exception to this is Jean Dennison's work which investigates the lasting implications of allotment and the oil boom by demonstrating the problematic headrights system the Osage Tribal Council instituted in the 1906 allotment

⁵⁰ Glasscock, *Then Came Oil*; Lamb; Larry Lucas, et. al., comp. *Oil in Osage County* (Pawhuska: Pawhuska Journal-Capital, 1996); Newsom, *The Life and Practice of the Wild and Modern Indian*; Deana Olcott, *The Enchanted Hills* (Pawhuska, OK: The Osage Printery, 1948); Kenny A. Franks, Paul F. Lambert, and Carl N. Tyson, *Early Oklahoma Oil: A Photographic History, 1859-1936* (College Station: Texas A&M University Press, 1981); Terry P. Wilson, *The Underground Reservation: Osage Oil* (Lincoln: University of Nebraska Press, 1985); W. David Baird, *The Osage People*; Brown, "Osage, Oil, and Oklahoma: Boom or Bust?"; Robert Gregory, *Oil in Oklahoma* (Muskogee, OK: Leake Industries, 1976).

legislation. Tribal leaders assigned each tribal member included on the 1906 census a headright or a portion of the share of oil royalties. Headrights combined tribal citizenship with oil royalties meaning that tribal members' voices could not be heard via voting or tribal service unless they had a headright. Since the Tribal Council distributed headrights simultaneously with allotment, only 2,229 headrights existed, resulting in many tribal members unable to participate in tribal government and elections until they inherited portions of a headright from family members. As Denison argues, "rather than buying freedom, Osage wealth led to deep entanglements" with colonization efforts of the United States. Ultimately, the Osage Nation created a new constitution in 2006 that separated oil headrights from tribal citizenship, but the legacy of the oil boom continued into modern tribal issues.⁵¹

Even when the Osage Nation and their mineral development is compared with other tribes that developed oil leases, such as the Hopi, Blackfeet, and the Five Tribes, they continue to stand apart from other Native Nations. The Five Tribes had varying types of natural resources present on their reservations, such as coal within the Choctaw Nation and oil on Creek lands. While the Osages allotted their lands to tribal members, they maintained the subsurface mineral rights as a communally held resource so all tribal members could benefit equally from any profits. Conversely, each of the Five Tribes allotted both the surface and subsurface rights. This strategy allowed some tribal members to reap the rewards of the new industry, while others were not as lucky. Tanis Thorne's *The World's Richest Indian* delves into these discrepancies by investigating Jackson Barnett, a Creek tribal member, and his oil wealth. In this work, she argues guardianship, as applied by the Office of Indian Affairs to protect Native peoples from

⁵¹ Dennison, 104.

“reckless spending,” transformed Indians into “economic and political pawn[s].”⁵² Much like in one version of the black spider story, Osage tribal members observed the events of their neighbors and used the information learned to protect their people as they encountered similar mineral development. By maintaining oil royalties communally, the Osage Nation earned unprecedented wealth and avoided many internal and social divisions that could easily accompany unevenly divided oil royalties.

The Five Tribes and the Osages successfully leased their lands for oil development, but the federal government prevented the Blackfoot Nation from doing the same. As Paul Rosier demonstrates, the Office of Indian Affairs disapproved a prospective oil lease due to it resembling a blanket oil lease. The Blackfeet desired to operate their own oil production company, but instead, the Office of Indian Affairs refused to provide monetary support since oil had not yet been located on their reservation. These stipulations were altered in 1933 when oil was discovered on the reservation, leading to the approval of oil leases. Following the example of the Osages, the Blackfeet distributed their oil royalties to all tribal members on a per capita basis.⁵³ The Hopi Nation also benefited from the Osages’ example as they started to develop their own oil industry. Developers desired access to their oil-rich lands starting in the 1940s. Due to land disputes and federal policies, the Hopi Tribal Council did not approve oil leases until the late 1950s. According to Richard Clemmer, the Hopi’s oil leasing did not produce nearly the wealth they had expected due to the federal government’s “protective” acts that placed tribal members in the middle of an “artificial and unrealistic business climate” they did not understand

⁵² Tanis C. Thorne’s *The World’s Richest Indian: The Scandal over Jackson Barnett’s Oil Fortune* (New York: Oxford, 2005), 7, 190.

⁵³ Paul C. Rosier. “Searching for Salvation and Sovereignty: Blackfeet Oil Leasing and the Reconstruction of the Tribe,” in *Native Pathways: American Indian Culture and Economic Development in the Twentieth Century*, edited by Brian Hosmer and Colleen O’Neill (Boulder: University of Colorado Press, 2004), 32-33.

well enough to negotiate profitable leases.⁵⁴ In many ways, the Osages' oil development set them apart and served as an example for other Native Nations as they began considering leasing access to their own natural resources.

Studies about the Osage Nation are not lacking, but the period from 1860 to 1930 has been insufficiently interrogated. This study seeks to span the gap between studies of the Osages during the colonial and early statehood eras and the ever-popular oil boom of the early twentieth century. This crucial era demonstrates how the Osages utilized negotiation, diplomacy, and adaptation to navigate extreme change, land cessions, poverty, and attacks on their sovereignty. The Osages relied on strong internal relationships and external alliances to create their relational web, which supported them as they adapted to the quickly changing world around them and became central to the Nation's survival. Tribal leaders utilized negotiation and their allies to avoid becoming victims of land cession treaties and criminals who attempted to steal from the tribe. Ultimately, the Osages' relational web enabled their people to thrive during a period when tribal sovereignty continued to be assaulted from every angle.

The Cherokees tell a story of Rabbit and Tar Wolf that illuminates how the Osages successfully navigated the challenges they faced throughout the late nineteenth and early twentieth centuries. In the story, Rabbit has been suspected of stealing water during a drought and is caught after getting stuck to Tar Wolf. He struggled and seemingly would never set himself free and is ultimately sentenced to death by being thrown into the briar patch. However, after his banishment to the briar patch, he cried, "This is where I live!"⁵⁵ Rabbit's unexpected

⁵⁴ Richard O. Clemmer, *Roads in the Sky: The Hopi Indians in a Century of Change* (Boulder: Westview Press, 1995), 212-214, 230.

⁵⁵ The story of Rabbit and Tar Wolf was first published in the Cherokee Advocate in 1845 and is believed to have influenced Joel Chandler Harris when compiling his book of Uncle Remus tales. Rabbit and Tar Wolf is set during a drought requiring the animals to dig a well. Rabbit refuses, stating that he will collect dew early in the mornings,

escape via the briar patch is indicative of how the Osages responded to the many challenges they faced. The Osage Nation found themselves in multiple seemingly impossible situations, including illegal squatters vying for their lands, starvation and disease on a new reservation, guardians deceiving their wards, as well as criminals attempting to steal and murder tribal members. However, each time the Osages adeptly navigated these challenges. Wealth did not define the Osage Nation, nor were its members' victims of a capitalistic society they failed to understand. Rather, they relied on negotiation, diplomacy, and their relational web to negotiate these complicated events, which ensured they survived as sovereign people.

The Osage Nation skillfully engaged in negotiations and diplomacy to reaffirm their tribal sovereignty. To cite one example, the tribe relocated to Indian Territory with eight million dollars held in trust by the U.S. Treasury, tribal members negotiated agricultural and grazing leases that ensured the renter would improve the land with no cost to the individual Osage and the Osage Tribal Council sent numerous delegations to Washington to speak on their behalf.⁵⁶ Marion Cracraft believed the "Osages have demonstrated an unusual perspicacity in handling their own affairs," but this is not unusual when one understands the historical context of the

but he actually steals water from the well at night. Wolf and Fox suspect Rabbit of theft and craft a wolf out of pine tar and leave it by the well. Much like in Uncle Remus's "Tar Baby," Rabbit kicks the tar wolf and sticks to it until the morning when he receives his judgement from the other animals. "The Rabbit and the Tar Wolf," *Cherokee Advocate*, December 18, 1845; Joel Chandler Harris, *Uncle Remus: His Songs and His Sayings* (New York: Grosset & Dunlap, 1880).

⁵⁶ Some historians have suggested that the Osage tribal leaders continually looked to Washington for suggestions as to how to proceed or they waited on legislators to address certain issues, but this is simply untrue. The Osages specifically negotiated to have the ability to send a delegation to Washington D. C. whenever they wanted in the Drum Creek Treaty of 1870. After the Commissioner of Indian Affairs approved that point, the Osages sent delegations to discuss a multitude of important issues, including the ability to lease grazing lands, contest the tribal rolls, and to discuss oil leases, in 1874, 1881, 1890, 1895, and 1905. This activity demonstrates the Osages were active participants in matters that directly affected them and their loved ones. Terry P. Wilson, "Chief Fred Lookout," 49; Mathews, 691-692; Isaac T. Gibson, "Osage Agency, I. T., Formerly Neosho, No. 20, September 1, 1874," in *The Annual Reports of the Commissioner of Indian Affairs* (Washington: GPO, 1874), 225; Dennison, 21; Burrill, 81; Jones, 102; H. Craig Miner, *The Corporation and the Indian: Tribal Sovereignty and Industrial Civilization in Indian Territory, 1865-1907* (Columbia: University of Missouri Press, 1976), 177; Baird, 70.

Osage Nation.⁵⁷ Throughout Osage's interactions with colonial powers, they quickly learned the rhetoric of Euro-Americans and incorporated it within their interactions with the Spanish, French, English, and Americans. Contact with Americans throughout the nineteenth century furthered tribal leaders' use of negotiation, diplomacy, and relationship building. By the 1860s, when the Osages found themselves hard-pressed on all sides between land-hungry whites and suspicious and hostile Indians, the tribe negotiated treaties and land cessions that ensured their sovereignty remained intact and respected by the United States.

Tribal members constantly looked for opportunities to expand their influence and ensure the security of their tribe by identifying and adapting to new business ventures. For example, during the 1880s, ranchers herded thousands of head of cattle north through the Cherokee Outlet and the western edges of the Osage reservation to reach cattle markets in the north.

Understanding ranchers expected to have the ability to stop, rest, and feed their herds on the rich prairie grasses in Indian Territory, Osage tribal leaders granted grazing leases with annual rental fees that were dispersed evenly to all tribal members. Not only was the Osage tribe the first Native Nation to successfully capitalize on the northern cattle drives through grazing leases, but their decisive actions increased the tribe's wealth to the point where their own Indian Agent and the Commissioner of Indian Affairs stated that they had become the wealthiest tribe in the nation decades before oil development began.⁵⁸

Historical analyses focusing on the oil boom period of the early twentieth century assert that the Osages became rich solely due to their good fortune of living above vast oil pools. This

⁵⁷ Cracraft, 10.

⁵⁸ H. B. Freeman, Sixteenth Infantry, Acting Agent, "Report of Osage Agency, Oklahoma, August 18, 1894," in the *Annual Reports of the Commissioner of Indian Affairs* (Washington: GPO, 1894), 242; W. A. Jones "Report of the Commissioner of Indian Affairs, Washington, September 26, 1898," in the *Annual Reports of the Commissioner of Indian Affairs* (Washington: GPA, 1898), 58.

is untrue. Tribal members carefully considered and selected their reservation in Indian Territory during the negotiations of the Drum Creek Treaty in 1871. This frequently cited inaccuracy highlights the importance of contextualizing Osage history, especially during the understudied time between 1860 and 1930. Without using a wider lens, the richness of Osage history tends to get lost in the sensationalized details so frequently reported by numerous historians. By examining the Osages' removal from their Kansas reservation to Indian Territory to the 1930s, it becomes clear tribal members cultivated and relied upon the allies they incorporated into their relational web to maintain control of their land, resources, and sovereignty. Despite ongoing attacks towards their sovereignty, Osages resisted these assaults to become a powerful and wealthy Native Nation.⁵⁹

Long before moving to their current homelands and their modern reservation in Northeast Oklahoma, the Osages faced pressure from the Iroquois and other neighboring Native Nations in the Ohio River Valley. Tribes residing in the East started to move west to escape the growing number of European settlements, which caused conflicts between other tribes. Eventually, tensions increased to the point where the Osages decided that they needed to find new homelands away from the uncertain conditions of the Ohio River Valley for their safety and survival. Tribal leaders led their people to what is now known as the Interior Highlands, consisting of central and southern Missouri, northern and western Arkansas, southeast Kansas, and eastern Oklahoma. The Osages chose this land due to the fertile ground, immense forests full of wild game, easy access to buffalo in the west, and the Missouri, Arkansas, and Mississippi Rivers provided routes for easy travel and trade. This prime land allowed the Osages not just to survive but thrive.

⁵⁹ Marion Cracraft, "The Fabulous Osage," *Landman* XII, no. 10 (September 1967): 7.

Eventually, the tribe's power grew as they began to trade with new foreigners with desirable trade goods, allowing their relational web to expand across the region.⁶⁰

Through the Osages' access to primary waterways to the interior of the continent, they found themselves in a position to frequently access European explorers and traders, particularly the French and Spanish. The first Europeans to reach the Osages in their new territory were the French along the Mississippi River in the late seventeenth century. By 1673, the Osages and French established trading relationships and tribal members had a steady supply of guns, ammunition, textiles, and other manufactured trade goods, while the French benefited through the acquisition of furs, horses, and Native slaves. Osages hunted for animal skins to trade with the French throughout the eighteenth century, but tribal members did not fundamentally alter their society or their culture. Instead, like many Native Nations, the Osages incorporated trade goods into their seasonal labor, including planting, harvesting, and hunting.⁶¹

Osages encountered Spanish traders in the late eighteenth century after the Seven Year's War when Spain gained control of formerly French held lands.⁶² The Spanish did not particularly care to trade and negotiate with the Osages, but because the tribe controlled so much territory and was such a formidable force, Spanish officials had little choice. They recognized the foolishness of neglecting such a lucrative trading relationship. Because the Osages had

⁶⁰ On the Ohio River Valley and the Great Lakes area with the multitude of native groups moving through this area during the seventeenth and eighteenth centuries, see Richard White, *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650-1815* (New York: Cambridge University Press, 1991). Theresa Trumbly Lamsam and Bruce E. Johansen, "How the Osages Kept Their Oil," in *Enduring Legacies: Native American Treaties and Contemporary Controversies* edited by Bruce E. Johansen (Westport, CT: Praeger, 2004), 272-273; Rollings, 5-6.

⁶¹ On colonial exchanges between Europeans and Native Nations see Joseph Hall, *Zumumo's Gifts: Indian-European Exchange in the Colonial Southeast* (Philadelphia: University of Pennsylvania Press, 2009). On language adapted to suit native societies, see Lisa Brooks, *The Common Pot: The Recovery of Native Space in the Northeast* (Minneapolis: University of Minnesota Press, 2008). Rollings, 5-6; Din, 25.

⁶² The British did send traders to Osages lands in the seventeenth century, but their influence in the region was negligible compared to the French and later the Spanish. Din, 85.

become the dominant nation in the region, the Spanish could not treat them as they had other tribes by establishing presidios or a missionary presence. In fact, the Spanish did not establish permanent settlements in Osage territory, opting instead to travel to and from the region with trading remaining their primary goal.⁶³

Osages eagerly traded for goods that improved their quality of life and eased their labor in everyday activities. Iron tools improved their ability to cultivate staple crops such as corn, while firearms became essential for hunting, procuring lucrative furs and hides, and protecting their people from enemy attacks. By trading with Europeans, the Osages willingly expanded their relational web to secure their homelands in the Interior Highlands as well as to exert their influence over other tribes in surrounding areas. The development of more extensive trading relations strengthened the tribal community and their influence as they acquired manufactured goods for trade and weapons to protect themselves from larger, better-armed tribes.⁶⁴

Due to their powerful status and strategically located homelands, the Osages became the “gatekeepers to the west” throughout the eighteenth century. Their large population and highly adaptable society allowed tribal leaders to “control the rate of change so that they could incorporate new elements and graft new features onto their older and more familiar cultural framework.” The Osages quickly learned they could utilize their size and strength to control the entire region and their access to European trade goods, such as “iron hoes, brass pots, and woolen stroud.”⁶⁵ By the 1730s, tribal leaders realized that if they maintained peace with tribes to their east, those even more well connected to French traders, Osage warriors could attack

⁶³ The Osages powerful position in the Interior Highlands was intimidating to traders and other tribes alike. As Kathleen DuVal states, the Osages domination of this region forced all Europeans to approach the tribe on their own terms. See Kathleen DuVal’s *The Native Ground*. Rollings, 9-10; Din, 385, 216.

⁶⁴ Rollings, 3, 6.

⁶⁵ Ibid.

western tribes and take what they needed rather than negotiating and losing a portion of the profits. Due to this strategy, the Osages continued to grow their power and influence over the region while developing their wealth.⁶⁶

By the late 1700s, even though the Spanish claimed Osage territory, tribal leaders further solidified their hold over the territory by negotiating and utilizing diplomacy to capitalize on the confusion and influence of French and American traders in the region. Osage warriors violently attacked smaller tribes like the Caddo and Wichita to their south to ensure they would not trade with the Spanish. Actions like these angered the Spanish, who vowed to stop all trading with the Osages, but because they still maintained contact with French Canadian and American traders, they could access the goods they needed. Losing their reliable trading network with the Spanish deprived the Osage Nation of the weapons and ammunition needed to maintain their relational web's strength and protect their region and themselves from more powerful tribes vying for access to their lands. During times of unreliable access to trade goods, the Osages did not turn inwards; instead, they raided Spanish villages to get the supplies they needed to maintain their status. The Spanish continued to be vexed by the Osages since they continually resisted domination from the colonial power. Spanish emissaries attempted to punish tribal members for not conforming to European conventions by restricting access to trade goods, but Osages appealed to the Spanish with "tears of contrition" to continue their valuable trading agreements.⁶⁷ By not conforming to Spanish demands, the Osages remained in control of their trading partners and the entire Interior Highlands region. The Osages learned from European traders and adapted

⁶⁶ By 1794, the French recognized how lucrative trade had become with the Osages; thereby rewarding the tribe by allotting sixteen out of twenty-nine allotted trading shares for the entire region around the Missouri River exclusively to the Osages. The remaining thirteen shares were divided among the Kansas, Otoes, and Pawnees. Din, 254; Rollings, 7-8, 122-123, 125.

⁶⁷ Din, 386.

techniques of negotiation and diplomacy to secure much-needed trade goods for themselves and allowed them to foster trading alliances with other Native peoples. Tribal leaders adapted to colonial traders and included them within their relational web since they recognized the value of controlling other tribes' access to manufactured goods. By cultivating this stance from the initial interactions between the Osages and European traders, the tribe developed a strong presence that demanded attention and respect from others, both Native and European.⁶⁸

Throughout the seventeenth and eighteenth centuries, it is clear the Osage Nation not only actively maintained their relational web, but they worked to extend those relationships as far as they could to ensure trading dominance throughout their homelands. As their relationships further solidified, the Osages became a more formidable force able to protect themselves against their enemies, particularly the Pawnee in the Great Plains. The Osages willingly stretched their web to include select people they felt would benefit the tribe. Like other tribal groups, Osages intermarried with their allies, but they also intermarried with European traders as a means to express their sincerity and commitment to peaceful trading arrangements.⁶⁹

By maintaining and growing their relational web, Osages placed themselves in a position of power to prevent their enemies from trading directly with Europeans. This meant they were effective middlemen who used their position to increase their wealth. Over time, while the Osage Nation created new relationships to ensure the growth of their communities, their internal relationships grew more complicated as a way to incorporate the increased wealth that entered the tribe at a rapid pace. Prior to trading with Europeans, the Osages' internal web featured individual bands and clans, and positions of power were inherited, effectively limiting the

⁶⁸ Rollings, 10, 121, 152-53; Din, 87, 386.

⁶⁹ Ruth Boutwell, "Adjustment of Osage Indian Youth to Contemporary Civilization" (MA Thesis, University of Oklahoma, 1936), 7-9.

number of traditional leadership positions available. However, as the Osages became increasingly wealthy, tribal leaders created a system that allowed upward mobility and space for additional wealthy tribal members. By creating more clans, leadership positions, and ceremonial privileges, tribal leaders ensured positions were made available for those who rose in status due to their trading connections. This expansion of their internal web allowed for peaceful and sustained growth of the tribe while recognizing the success of individuals. As the nation grew in size and power, it split into separate bands with the Little Osage located along the Missouri River in the North, the Arkansas Band located along the lower Verdigris River in the South, and the Big Osage located along the upper Osage River. By adding complexity to their internal relational web, tribal leaders ensured that the Nation maintained power and influence while preventing tribal members from becoming mired in internal conflicts that risked weakening the overall structure of their society.⁷⁰

The Osages cultivated and reinforced their relational web just in time to confront the rising power of the newly formed United States. The Osages continued to exist in much the same circumstances until after the War of 1812. At that point, the British had been thoroughly removed from all American territories, eliminating trade with the tribe. The loss of trading relationships with the British and French Canadians harmed the Osages since they secured most of their guns and ammunition via these parties. Americans understood the powerful Osage Nation controlled prime lands for settlement. Consequently, American politicians advocated for opening Osage lands for settlement. Once the United States gained control of the lands encompassing the Louisiana Purchase and traders established a permanent presence in the region, the Americans traded with any tribe willing and able to produce valuable goods in

⁷⁰ Rollings, 11, 8.

exchange. The refusal to recognize the status of Osage tribal members effectively eliminated the Osage Nation as the predominant trading partner in the region. Tribal members attempted to regain control of trade throughout the region by attacking smaller tribes to their south and west. Warriors hoped to demonstrate their dominance and deter the weaker nations from trading with anyone but the Osages. By the 1820s, surrounding tribes gained strength due to increased access to trade goods, resulting in the Osages losing their dominant position.⁷¹

The Osages benefited from more powerful and technologically advanced firearms, allowing tribal members to hunt in smaller parties and return with high-quality hides and furs. The advanced weaponry procured through trading initially benefitted the Nation, but it ultimately resulted in the tribe dividing into two additional bands in the 1830s. Once again, tribal leaders encouraged the division to resolve any competition among tribal members by creating additional leadership positions. By allowing two more bands to develop, tribal leaders recognized the success of individuals while ensuring peaceful relationships and a robust internal web. These bands quickly grew in strength, but the initial formation of additional bands and the internal reorganization temporarily weakened the Osages while the tribe adjusted to the changes. The adaptation to additional wealth and influence ultimately benefitted the tribe, but to non-native observers, this process looked chaotic and seemed to signal a dissolving tribal nation. This was not the case, but the reorganization occurred at a time when the Osages encountered additional threats from settlers coming to and crossing through their lands.⁷²

During the 1830s and subsequent decades, the Osage Nation's once crucially located lands that enabled their regional dominance became prime real estate in the eyes of settlers. Historian Rollings describes the changes of attitudes towards Osage lands as "their carefully

⁷¹ Ibid, 12, 215, 255-256.

⁷² Ibid, 155, 11.

guarded gateway of the eighteenth century became a public highway in the nineteenth century.” At first, settlers traveled through their lands, but as the nineteenth century continued, the tribe felt pressure to cede land to settlers. Additionally, the Osages felt a new threat from eastern tribal nations since they started to move west to seek safer and more stable environments for their own people. Osages felt squeezed on all sides from American and Native settlers alike. To complicate matters, western plains tribes, particularly the Comanches and Arapahoes, had risen in prominence and started to raid Osage villages. With additional rivals in the region, Osages found it increasingly difficult to locate quality game and buffalo to supply their nutritional and economic needs, thereby putting the safety and survival of the Nation in jeopardy. The Osages’ once massive relational web that spread across the region faced considerable stress.⁷³

The United States government started negotiating treaties with the Osage Nation in 1808, which further complicated the Osage’s sovereign status. During the negotiations, tribal leaders agreed to cede their claims to the northern part of Arkansas and most of their lands in Missouri. However, the principal chief Claremore did not sign this agreement.⁷⁴ The lack of Claremore’s signature placed the treaty in a tenuous position, so the federal government started renegotiating this treaty in 1818 to gain approval for additional land cessions. Tribal leaders signed a new treaty in 1818 that ceded the lands agreed upon in the 1808 treaty as well as their remaining lands in Arkansas and Eastern Oklahoma. Osages agreed to relinquish these lands, but they understood the onslaught of settlers and eastern tribes relocating west meant that requests for land cessions would continue in coming years.⁷⁵

⁷³ Ibid, 283-284, 267, 12.

⁷⁴ The spelling of the principal chief’s name varies in sources. At times it is spelled Claremore, other times it is Clermont.

⁷⁵ Lamsam and Johansen, 273.

By 1825, the federal government approached tribal leaders once more with a request for additional land cessions. This time, the United States requested the Osages cede their rights to any remaining lands in Arkansas, Missouri, and Oklahoma. In return, the government would establish a reservation on a portion of their remaining lands in southern Kansas that would be protected from further land cessions and settlers claiming their territory. At this point, the Osage tribal leaders faced a difficult decision: should they wait to sign additional treaties and face more pressures of land settlement and a strengthening federal government, or should they willingly allow their relational web to contract and relocate to protect their tribal members? Tribal leaders considered their options and decided they needed to protect their people first and foremost. The Osages negotiated for a tract of protected land in Kansas Territory, a twenty-year payment of \$7,000 per year, 600 head of cattle, 1,000 fowls, 20 oxen, six carts, farming implements, and a resident blacksmith. After signing the 1825 treaty, the Osages relinquished their claims to a total of 96,800,000 acres of land in exchange for \$166,300 received in cash and goods. When the Osage leaders negotiated the terms of the 1825 treaty with government officials, they could not negotiate from a position of strength. They had endured hardship and threats to their very existence for years with the almost continuous interference of settlers squatting on their lands and disrupting game migration patterns. Tribal negotiators attempted to negotiate, but they were met with tremendous resistance. They received a payment of “*one penny for each six acres ceded* [emphasis in original].”⁷⁶

Osages believed they would be better positioned to maintain the strength of their web if they moved to a reservation in Kansas. In the beginning, it appeared as though the tribe benefited from the arrangement since the move alleviated continual conflict and pressure from

⁷⁶ Lamsam and Johansen, 274; Osage Tribal Council, *Osage Indians Semi-Centennial Celebration, 1907-1957* (Pawhuska, OK: Osage Agency Campus, 1957), n.p.

settlers. In 1839, just fourteen years after the last treaty, the Osage Nation relied on effective negotiation strategies to craft an additional treaty that reinforced previous treaty provisions along with additional goods and services while maintaining their current land holdings. The United States agreed to provide the Osage Nation with an increased annuity equaling \$20,000 for twenty years which was to be divided into \$12,000 in cash and \$8,000 in “goods, stock, provisions, or money ‘as the President may direct.’” Federal representatives also agreed to build the Osages a saw and grist mill and provide labor to operate the mills, two blacksmiths and assistants, 1,000 head of cattle, 2,000 hogs, 1,000 plows, hoes, and axes, as well as 1,000 complete sets of tack.⁷⁷

Despite the success of the negotiations to increase their annuities, the federal government provided the Osages no protection from additional white settlements or the ever-present rhetoric of “manifest destiny” that impelled Americans to move West. Since the Osages’ Kansas reservation was located just to the south of the Santa Fe Trail, one of the most traveled overland trails, the reservation saw increasing numbers of Americans crossing into their lands as they headed west to settle in “virgin territories,” to participate in the Mexican War, or to seek their fortunes during the California gold rush. While the Osages did as much as they could to limit access to their lands, the sheer number of people coming into the region challenged the ability of tribal leaders to maintain control of their lands. Federal officials focused their efforts on maintaining peace on the plains and encouraged “civilization” efforts among Native groups. Instead of protecting Osage lands, they provided tribal members with farming implements provided for tribal members and granted permission to Catholic Father John Schoenmaker to establish a school and mission on the Osage reservation in 1847.⁷⁸

⁷⁷ Lansam and Johnsen, 274.

⁷⁸ For a general overview of American history and how manifest destiny has continually influenced American citizens and leaders alike, see David Reynolds, *America, Empire of Liberty: A New History of the United States* (New York: Basic Books, 2011). Baird, 50-51.

By the 1850s, tribal members realized they needed to act more assertively to demonstrate their sovereignty over their lands. They began attacking wagon trains and harassing travelers. While tribal leaders believed aggressive actions would hopefully deter Americans from entering Osage territory, it instead fostered the fear of hostile and “savage Indians.” With the passage of the Kansas-Nebraska Act in 1854, which created a path for statehood for the two territories to enter the Union, Osages realized the traffic they experienced due to overland trails would pale in comparison to future immigration. With more white settlers coming to the area, the United States government started sending troops to patrol the plains to protect migrants on the overland trails and settlers in the new territories. Yet, the Osages received no protection from those trespassing on their lands despite the rhetoric used in the 1825 treaty.⁷⁹ Tribal members rallied around one another and strengthened their relational web to protect themselves from the wave of settlers headed to their reservation.

This study of the Osages is told in six chapters commencing in 1860 and concluding in 1930. The first chapter, “Kansas Negotiations,” begins by discussing life on the Osage Reservation within Kansas. By this time, tribal members faced external stressors such as the buffalo moving further west, making hunting more difficult and time-consuming, the effects of the Civil War with soldiers and refugees moving through their lands, and white settlers squatting on their reservation. After the Civil War, tribal leaders negotiated the Canville Treaty ceding some of their lands in an attempt to prevent squatters from claiming more of their reservation. By 1867, the Office of Indian Affairs and William Sturges, the Leavenworth, Lawrence, and

⁷⁹ On Euro-Americans fear of Native Americans and their “violent tendencies” in the colonial and early Republic see Peter Silver, *Our Savage Neighbors: How Indian War Transformed Early America* (New York: W. W. Norton, 2009). For popular first-hand accounts of Indian captivity narratives that fueled these fears see examples, such as John Williams, *The Redeemed Captive, Returning to Zion* (Boston: B. Green, 1707). For a more contemporary example, see Royal B. Stratton, *Captivity of the Oatman Girls* (New York: Carlton & Porter, 1875). Baird, 51.

Galveston Railway president, forced tribal leaders to sign a fraudulent treaty ceding all their lands to the railroad company for a grossly undervalued price. Tribal leaders immediately utilized their relational web, hired lawyers from the Cherokee Nation, and appealed directly to the United States President to overturn the corrupt Sturges Treaty. They succeeded in their efforts and ultimately negotiated a much more beneficial treaty that allowed the tribe to select and purchase their new reservation in Indian Territory.

Chapter two, “New Beginnings in Indian Territory,” begins with the Osages' removal from their Kansas Reservation. They selected and purchased their new reservation, but incorrect maps led the Osages to settle on Cherokee lands initially. They ultimately relocated to the correct location and successfully obtained title to nearly a million additional acres due to the Office of Indian Affairs' initial error. Tribal members welcomed the additional acreage since they hoped it would protect them from Kansas settlers from invading their new reservation; however, squatters continued to be a problem. Their initial decade in Indian Territory failed to live up to the expectations of tribal members. In addition to white intruders, they faced disease, poverty, near starvation, poor buffalo hunts, and poor crops. Despite these challenges, tribal leaders drafted a new constitution, asserted their sovereignty, and negotiated new alliances with neighbors, Cherokees, white traders, and the Osage Agency employees. The expansion of their relational web aided the Osages as they demanded clear title to their lands and responded to increasingly violent attacks from Kansan settlers.

The creation of the Osages' leasing economy, discussed in chapter three, marked a turning point in the tribe's history. The 1860s and 1870s were fraught with conflict and less profitable hunting and trading opportunities. By the 1880s, tribal members capitalized on the presence of cattle drives and cattlemen's desires to graze their herds on tribal lands. The Tribal

Council negotiated profitable grazing leases that allowed cattlemen's herds to graze within their reservation legally. Additionally, Osages expanded their relational web to incorporate white farmers by negotiating agricultural leases. The newly created leasing economy allowed tribal members to profit from lands they did not need for their immediate use while cultivating beneficial relationships with white allies. Individual leases allowed tribal members to stipulate specific tasks to be completed on their lands, such as fencing, building barns and outbuildings, and planting orchards. The rhetoric of the leases ensured all improvements to the land reverted to tribal members at the expiration of the lease. Between annual lease payments and the improvements to their lands, the Osage Nation quickly became the wealthiest per capita nation in the world decades before oil production began.

Chapter four considers the pressures placed on the tribe by allotment, statehood, and sovereignty. As the Osages cultivated their leasing economy, white settlers within Indian and Oklahoma Territories envied their neighbor's wealth. Criminals came to the area to steal, extend exorbitant amounts of credit, or illegally sell alcohol to tribal members. An additional assault on the tribe's sovereignty came from white settlers within Indian and Oklahoma Territories as they attempted to enter Oklahoma as the newest state in the Union. The Office of Indian Affairs sought to allot all Native land holdings prior to statehood, but the Osage Tribal Council rebuffed these efforts from the 1890s to 1906 when they finally accepted allotment on their own terms. The Tribal Council stipulated all acreage would be allotted to tribal members with no surplus land opened for white settlers, their government would remain intact, a census would be conducted, and all sub-surface mineral rights would be held communally rather than disbursed with the land allotments. Due to the Osages' negotiation strategies, they established laws that protected their people and their sovereignty.

Chapter five, “Oil Development and Wealth,” traces the earliest blanket oil lease and oil development on the Osage Reservation. The initial lease offered by the Foster family was obtained through political influence and partnerships formed by the Fosters and interested parties. The Osage Tribal Council voted on the measure, but tribal members were divided about leasing their sub-surface rights to one production company. The Foster’s oil lease faced many challenges and was ultimately canceled. Although Henry Vernon Foster continued operating on Osage lands with a subsequent lease, tribal members saw few royalties until 1916 when the Osage Agency hosted public auctions for oil leases. Tribal members incorporated oil into their leasing economy and enjoyed the benefits of the resulting wealth. They lived lifestyles of convenience which attracted the attention of journalists around the world. Although Osages had wealth prior to oil development, the oil boom attracted the attention and imagination of whites.

The final chapter investigates the so-called “Reign of Terror,” as many contemporary journalists referred to the oil boom era. In their accounts, criminals descended upon wealthy tribal members while the Osage Nation was powerless to prevent the crimes, murders, and fraud that affected their people. This chapter briefly discusses the most frequently cited murder plot of William K. Hale and white reactions to Native wealth but argues tribal members were not helpless victims throughout this period. Tribal members relied on their internal relationships and external alliances for support and to advocate for investigations into the many reported crimes. Osages also faced attacks on their sovereignty in the form of guardianship and “competency” status assigned by government officials. Ultimately, tribal leaders supported their people by relying on their relational web to start investigations, prosecute criminals, and draft legislation that prevented the loss of headrights through intermarriage with white citizens.

Taken together, the events of the late nineteenth and early twentieth century fundamentally altered Osage life and politics. Tribal members navigated the shift from semi-annual buffalo hunts to a leasing economy that encompassed cattlemen, farmers, and oil barons. They drafted two constitutions, endured the dissolution of their tribal government, and negotiated critical treaties and allotment legislation that ultimately benefitted tribal members. Tribal members relied on their long history of negotiation and diplomacy to navigate rapid changes and the many assimilation efforts the federal government attempted to force upon them. By crafting strong relationships between tribal members and beneficial alliances with external parties, the Osage Nation relied on their relational web to protect their people, their natural resources, and their sovereignty.

Chapter 1

Kansas Negotiations

As the Osages slowly migrated to a small corner of their once extensive homelands, they recognized their control of the central plains had diminished. As a result, many allies, former trading partners, enemies, and the federal government believed the Osages had become a significantly weakened tribe. To the Osage people, nothing could be further from the truth. In 1839, the Osages signed a treaty to relocate to their Kansas reservation after facing increasingly difficult circumstances. While this was not their first choice, nor was it an easy decision to make, Osage leaders believed moving to a reservation would help maintain their nation's strength. By willingly relocating, the Osages strategized that they could fortify the ties that bound each tribal member through their internal relational web. Once established in their new territory and supporting one another through the move, tribal leaders could expand their external relationships as they incorporated more allies into their external relational web. Osages hoped that once they strengthened their web, internally and externally, they could once again expand their influence and trade from a position of strength.

As the 1800s progressed, tribal leaders grew frustrated that they could not fully exert their power and dominance in the region resulting from shifting dynamics throughout the interior of the continent. Not only did settlers and overland travelers create tensions with the Osages, but each Native group, with their own beliefs and goals, had to negotiate the rapidly changing landscape in the West. Every tribe, band, family, and person had their own motivations for being in the same region, but naturally, many of these motivations resulted in competing interests. Between 1825 and 1872, the Osage Nation encountered new challenges that needed careful attention so the tribe's best interests could be met, but too often, the situation shifted drastically

before much progress could be made. Regardless of the challenges they faced as they attempted to expand their relational web by incorporating external alliances, tribal leaders succeeded in maintaining the strength of their people and the strands that held them together. This allowed tribal leaders to negotiate from a position of strength during the Drum Creek Treaty proceedings, which set the stage for a much more fruitful experience in Indian Territory.

By the 1830s, the Osages aligned themselves with the Kaw tribe for protection against their mutual and more powerful enemy to the west, the Pawnee. Even as Native relationships grew more complicated, the Osages negotiated alliances that allowed them to access the plains for hunting buffalo and other fur-bearing animals. Osage leaders utilized diplomacy they learned from colonial nations to bring significant profits from their hunting expeditions. Soon they realized their Kansas reservation provided even more access to trade goods. The supply of American goods acted as a reliable spring since they had direct contact with permanent settlements rather than scattered groups of colonial representatives and traders. The Osage Nation utilized this stream of goods as a bargaining chip to negotiate new trading alliances with Native groups on the plains. Once again, the Osages placed themselves in the middle of trade as crucial trading partners, and their location served as an access point for trade goods to encourage the growth of their relational web.¹

The 1830s and 1840s provided the Osages with lucrative trading opportunities that naturally fostered new alliances with trading partners. In 1847, the Osage Agent stated each year the Osages earned roughly \$80,000 to \$100,000 a season through their trade of hides and pelts at

¹ The Kansa tribe are also called the Kaw, Kanza, or Kansas Nation. They are a federally recognized tribe as the Kaw Nation, therefore they will be referred to as the Kaw tribe in this work. Rollings, 273; Baird, 50.

the Grad Saline trading post in Kansas Territory.² This money provided tribal members with the flexibility to continue their way of life and ensured they remained active in the market economy. By consistently earning such large amounts of money, other tribal nations and settlers in the region, as well as the federal government, understood they could not just ignore the wealthy tribe. Tribal members ensured they actively participated in the trade economy and did so at a level that made them indispensable trading partners for many trading posts and tribal nations throughout the area.

However much the Osages profited from the lucrative trade in the 1830s and 1840s, the 1850s marked a significant change. Osages found it increasingly difficult to locate game since traffic along the overland trails, settlers coming to the plains, and the concentration of Native peoples into smaller areas had disrupted migration patterns. Additionally, the Osages' best trading partners in the 1840s, the Comanches, signed a treaty with the federal government in 1853. Instead of the Comanche Nation acquiring valuable trade goods primarily from the Osages, they started receiving their goods via rations from the federal government.³ While trade did not altogether cease between the Comanches and Osages, it slowed significantly and inflicted "a serious blow to the Osage, who bitterly resented the action of the federal government and the defection of their former friends."⁴

While the Osages navigated the changing trading patterns, they capitalized on their remote location to nurture alliances and expand their external relational web without the influence of federal employees. The Osages' newly formed Kansas reservation consisted of a

² This volume of trade had been going on since 1817. Calculating for inflation, these amounts would equal \$2,139,096 to \$2,988,857 in modern currency. Grant Foreman, *The Last Trek of the Indians* (Chicago: University of Chicago Press, 1946), 267.

³ "Treaty with the Comanche, Kiowa, and Apache, July 27, 1853" in *Indian Affairs: Laws and Treaties*, comp. Charles J. Kappler (Washington, DC: GPO, 1904), 2: 600-602; Baird, 50.

⁴ Foreman, 267.

large swath of land that was located the furthest distance from the Neosho Agency. The federal government chose to place one agency in a central location to oversee several smaller tribes residing on reservations in Kansas Territory. Located at Fort Scott, the Neosho Indian Agent oversaw the Shawnees, the Seneca, the Quapaws, and the Osages. Naturally, agents worked most extensively with the tribes in close proximity, but the Osages' western border was located roughly fifty miles west from the Neosho Agency. This arrangement suited the Osages well since they governed their people and continued living as they had on their original homelands. The Osages maintained their trading interests according to what would benefit the tribe. Since they had experience negotiating lucrative trading agreements for generations, the tribe began developing their wealth sixty years before they benefited from twentieth-century oil production. While the Osages enjoyed the freedom their location afforded them, Indian Agents complained about the difficulties of managing the Osages and their reservation with such an inefficient arrangement.⁵

Once the federal government and the Indian Agent fully understood the amount of money cultivated by the tribe, Indian Agent Andrew J. Dorn stated in 1860 that the federal government needed to step in and supervise Osage wealth. He believed that traders had taken advantage of the Osages by undervaluing their furs and hides and then overcharged them for trade goods. As a result, he advocated that the federal government purchase goods on the Osages' behalf and

⁵ The Office of Indian Affairs, renamed as the Bureau of Indian Affairs in 1947, typically assigned at least one Indian Agent to native tribes living on reservations. The Indian Agent supervised additional agency employees and served as the first point of contact between the federal government and a tribal nation. Ideally, by living among the people they served, Indian Agents would be able to inform and advise officials of conditions among the tribe, how to address concerns, and how legislation would potentially affect the community. The Indian Agents reported to regional Superintendents, who in turn reported to the Commissioner of Indian Affairs. The Commissioner of Indian Affairs directly reported to the Secretary of Interior, who then informed the President of the United States. On the bureaucratic structure of the Office of Indian Affairs, see Laurence F. Schmeckebier, *The Office of Indian Affairs: Its History, Activities, and Organization* (Baltimore: The Johns Hopkins Press, 1927). Andrew J. Dorn, "Office of the Neosho Agency, Quapaw Nation, September 18, 1860," in the *Annual Report to the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1860), 344.

distribute them to the tribal members. He carefully avoided using the term “rations” or “annuities,” but the idea remained the same. Since there is no concrete evidence from this time period of traders inflating trade good prices, it is possible that the federal government grew concerned about Osage wealth and the possibility that the tribe might be swayed to financially support the Confederates during the Civil War. Regardless of the reasoning of the federal government, providing goods to the Osages took away the autonomy of tribal members to trade for items they personally valued or deemed worthy of trade.⁶

By the 1860s, the Osage Nation once again felt the pressure of settlers to their east and north. To the west, plains tribes attacked Osage hunting parties and western villages to prevent them from hunting buffalo on the plains. The interior of the continent, and the Native Nations therein, faced a rapidly changing world leaving tribal nations to adjust in a variety of ways to support their people. Protecting their people and assets, particularly horses, remained a priority, but as a result, the Osages faced a considerable number of conflicts between the Kickapoo, Delaware, and Wichita tribes over the theft of horses. During one incident, the Osages reported several Kickapoo men stole horses as they passed through the reservation during the winter of 1863. A retaliatory raid of Osage warriors took horses from an encampment of Wichita and Delaware, who were known to be camping with the Kickapoo. Agent E. H. Carruth reported that tensions ran so high war nearly started, but he quickly reassured his supervisors that he singlehandedly deescalated the situation by orchestrating an exchange of horses. While that might be the official record, what is more probable is that the Osages realized that they simply could not afford to go to war with the Kickapoos due to the mounting pressures they faced at the

⁶ Peter P. Elder, “Office of the Neosho Indian Agency, Fort Scott, September 12, 1862,” in the *Annual Report to the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1862), 288.

time.⁷ The Osages used diplomacy to resume peaceful relations with the Kickapoos to maintain some equilibrium in an unsettled world. Without effective negotiation tactics, tribal members risked going to war which would have placed undue stress on the tribe's entire relational web and harmed tribal members.

The federal government justified their forced removal of the Osages to Kansas by arguing that closer proximity to plains tribes would foster peace. No evidence existed that this would occur; rather, this paternalistic rhetoric intentionally obfuscated the fact that the federal government alone benefitted from the removal. Unsurprisingly, tensions grew exponentially between the Osages and the Cheyennes and Arapahoes in the late 1860s. Previously, these nations had been allies and some of the Osage Nation's best and most reliable trading partners, especially after the Comanches started receiving annuity payments. After the Civil War, the United States focused its attention on the West and "subduing hostile Indians" during a time historians have titled the Indian Wars. By 1867, the Cheyenne and Arapaho tribes fought for their sovereignty and quickly recognized they needed assistance from their allies. They approached the Osages, but Chief Paw-Hiu-Skah declined to join the Cheyennes and Arapahoes in the fight against the United States. They refused to risk their peaceful relationship with America or their trading relationships with settlers and other Native groups. The Osage's relational web had expanded since moving to the Kansas reservation, but tribal leaders understood that they could not afford to lose a war and, ultimately, their tenuous position of power they had recently cultivated.⁸

⁷ Craig Miner and William E. Unrau, *The End of Indian Kansas: A Study of Cultural Revolution, 1854-1871* (Lawrence: University Press of Kansas, 1990), 138; E. H. Carruth, "Neosho Falls, Kansas, September 19, 1862," in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1862), 308, 310.

⁸ Baird, 48; Mathews, 663.

In response to the Osages' refusal to join the Cheyennes and Arapahoes, tribal members and their closest allies, the Kaw Nation, became targets for raiding parties. Cheyenne and Arapaho warriors also started to attack hunting parties which effectively prevented the Osages from going on their important bi-annual hunts. In November 1867, G. C. Snow, the newly arrived Indian Agent at the Neosho Agency, reported the Osages faced a “very destitute condition” since a group of Arapahoes had attacked an Osage village, killed two women and several men, and stole an estimated 300 horses. The loss of tribal members was devastating but losing 300 horses resulted in the inability of multiple hunting parties to go west for the winter buffalo hunts. Additionally, Snow stated that even if they had the means to go on a hunt, “it is impossible for the Osages to hunt the buffalo with any degree of safety or success” due to the continued conflict.⁹

A tentative peace between the Cheyennes and the Osages occurred in 1868, but fighting continued periodically until 1872 when the Osages relocated to their new reservation in Indian Territory. The continued attacks by plains tribes threatened the Osages' relationships with other tribal nations since they had fewer goods to offer for trade. By 1871, the attacks had increased to the point where the Osages reported increasing numbers of stolen horses, and their buffalo hunts had essentially stopped. The plains tribes procured the resources of the Osages to ensure their stability of their own people, but after years of attacks, the Osages suffered and faced starvation. Without external relationships, the relational web could not function properly since they relied on their trading partners for many necessities. When the relational web faltered, either through

⁹ Mathews, 666; G. C. Snow, “Neosho Agency, September 8, 1868,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1868), 271.

failed alliances or internal divisions, the Osage Nation struggled to stabilize their economy and provide for their people.¹⁰

Isaac Gibson, the Osage Agent appointed in 1869, stated the plains tribes, such as the Comanche, Southern Cheyenne, Southern Arapaho, and Apache, viewed the Osages as weak since they agreed to live on a reservation and did not have easy access to the herds of buffalo on the plains or other goods. The plains tribes used their position of power to attack trains of emigrant settlers, capture women to hold for ransom, or attack frontier settlements. The practice of raiding allowed plains tribes to survive for an extended period of time before being forced to live on reservations. These tribal nations held a different worldview than the *Wah-Zha-Zhe*, who held the spider's tale in high regard. The story of the black spider extolls the virtues of patience and waiting for people and opportunities to come to them. As a whole, the Osages had no interest in living a raiding lifestyle; they lived for generations on prime lands utilizing diplomacy to sustain their people. This practice did not make the tribe weak; instead, this strategy proved to be an enviable trait.¹¹

The Osages witnessed changes in the success of their bi-annual buffalo hunts since the 1840s, but by the 1850s, the migration patterns of the buffalo had shifted so far west that Osage hunting parties frequently had to travel 600 to 800 miles to locate the game they required to support their economy. Attacks from plains tribes further complicated this grueling trip. Osage lives started to revolve more and more around hunting to accommodate the travel necessary to

¹⁰ Thomas Murphy, "Fort Larned, Kansas, August 1, 1868, the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1868), 69; Gibson, "Neosho Agency, Kansas, Montgomery Post-Office, October 1, 1871, 488.

¹¹ On plains tribal economies throughout this time period, see: Pekka Hamalainen, *The Comanche Empire* (New Haven: Yale University Press, 2008) and Brian DeLay, *War of a Thousand Deserts: Indian Raids and the U.S. – Mexican War* (New Haven: Yale University Press, 2008). Isaac Gibson, "Neosho Agency, No. 72, Kansas, Montgomery Post-Office, October 1, 1871, the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1871), 488.

locate buffalo herds. Eventually, the small hunting parties evolved to include family members so the hunters could maintain their relationships with their families and community at large even when far away from their homelands.¹² When the hunters left for buffalo hunts, their familial and community relationships suffered, ultimately straining the internal relationships throughout the tribal nation. By incorporating their families with the hunts, tribal members ensured their internal relational web remained strong even as their hunts grew longer over time. The agents described the women as being responsible for the “drudgery generally” while traveling with the hunting parties; however, Osage women shifted their cultural practices to accommodate their new reality and support the tribe.¹³

As the Indian Agents described, the Osages “live entirely by the chase, spending much of their time in the buffalo range.”¹⁴ By the 1860s, the Osages participated in two hunting excursions each year. Tribal members typically planted their crops on their reservation around May and prepared to go on their summer hunt starting in June. Hunting parties spent the summer on the plains, returning with the hides of buffalo and deer sometime in August. The men would quickly sell the hides and prepare what was needed to supply the winter hunts. The women harvested the corn and other crops they planted in the spring and prepared those stores to return to the plains around the end of September or the beginning of October. The Osages wintered on the plains and hunted for the heavy and thus more valuable winter buffalo hides. When they returned to their reservation in March or April, they traded the valuable hides for “flour, coffee,

¹² Foreman, 267; G. C. Snow, “Report from the Neosho Agency, Baldwin City, Kansas, September 5, 1867,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1867), 325.

¹³ Elijah Sells, “Southern Superintendency, Lawrence, Kansas, October 16, 1865,” the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1865), 258.

¹⁴ Sells, “Southern Superintendency, Lawrence, Kansas, October 16, 1865,” 258.

sugar, and such articles as they need for dress and ornament.” This cyclical pattern dominated Osage lives until the mid-1870s.¹⁵

While the Osages adapted to game moving further west, by 1867, tribal members started returning from each hunt with fewer and fewer hides, resulting in inferior trading arrangements – a crucial element of their external relationships. Low profits meant that Osages could not purchase the required items to go on the next buffalo hunt, which many thought could prove more fruitful than the last. Indian agents stated that the Osages' wealth at this time had been relegated to “horses, ‘wampum,’ and trinkets,” since their physical money had been depleted.¹⁶ Many Osages soon found themselves in a position where they had to sell their horses to get enough money to feed themselves. With fewer and fewer horses to trade, some started relying on credit to purchase horses and supplies needed for the next hunt. However, most Osages did not have sufficient credit with traders, so many tribal members quickly became “destitute, hungry, and unhappy,” which frequently resulted in the theft of items they needed or could sell for a quick profit.¹⁷ None of these options benefitted the Osages nor provided solutions for the long term. Relationships remained strong between tribal members through their internal relational web. However, with the persistence of external stressors, their relational web remained threatened since it became increasingly difficult to rely on current allies or craft new alliances during the tumultuous time.¹⁸

¹⁵ Snow, “Report from the Neosho Agency, Baldwin City, Kansas, September 5, 1867,” 325.

¹⁶ *Ibid.*, 324-325.

¹⁷ Sells, “Southern Superintendency, Lawrence, Kansas, October 16, 1865,” 258.

¹⁸ Buffalo hunters hired by railroad companies and individuals hunting for sport dramatically reduced the size of buffalo herds throughout the nineteenth century. The buffalo hunting happened rapidly and had devastating consequences, resulting in the near extinction of the American bison. The Osages did hunt for profits as well as meat, but they insisted on using only bows and arrows since they believed the sound and smell of gunpowder caused herds to stampede and “become so wild that their hunts would prove failures.” When compared to the much more efficient process of the buffalo hunters and their rifles, the Osages could not keep up with rate of destruction by hired gunmen. Foreman, 267.

To make a difficult situation even worse, Wa-Tier-Chi-Ga, Chon-Ta-Sa-Bais, Nan-Gais-Wa-Ha-Qui-Hais, among many other tribal leaders who signed the 1839 treaty, thought they had negotiated a fair treaty to move to the Kansas reservation, which included goods and livestock to help establish themselves in a new land. Osage tribal members did not have much interest in these goods since they never desired to cultivate the land like a yeoman farmer as the federal government hoped. However, as more and more challenges strained the Osages and their relational web, Chief Paw-Hiu-Skah, and others demanded to have the goods promised to them in the 1839 treaty be delivered to aid the starving Osages. According to the treaty, around 3,000 head of livestock and 2,000 sets of tools and tack should have arrived soon after the Osages relocated to Kansas, but the federal government failed to deliver the complete treaty requirements until after the Civil War. In fact, many of the goods remained undelivered until the Osages negotiated a new treaty in 1870 when they ceded additional land and established new reservation boundaries.¹⁹

Even though the Osages struggled to feed their families and increasingly relied on theft, the Neosho Indian Agent, Peter Elder, stated that if the government disbursed more money to the Osages, the situation would not improve. Elder argued that more money would only benefit “a few avaricious and unscrupulous traders” because the traders used credit to exploit Native peoples. He even compared the Osages to the Sac, who received \$50,000 per annum, but Elder concluded that even with their money if one looked past the “blankets and the gewgaws,” the Sac Nation was in the same position. Due to the local Indian agent’s discouragement and the

¹⁹ The Osages demanded the goods to be delivered to them in the 1850s, but when the Civil War started, the federal government quickly used the conflict as an excuse to further delay sending aid to the Osages. In fact, the full payment of the 1839 treaty requirements were not fulfilled until 1872 when the Osages agreed to move to Indian Territory. At that point the federal government’s complied because the Osages simply refused to move until their original treaty had been honored. Treaty with the Osage, January 11, 1839, 7 Stat. 576; Dorn, “Office of the Neosho Agency, Quapaw Nation, September 18, 1860,” 345.

ongoing expense of the Civil War, the federal government did not come to the aid of the Osages. As the Osages and the supportive framework of their relational web lost strength and integrity, the federal government refused to help them fortify their support structure.²⁰ Tribal leaders understood they alone could improve their people's environment and living conditions. Since they could not rely on outside support, tribal members focused their attention on negotiating and advocating for the best possible outcomes for their people.

The Civil War presented additional challenges for the Osages since they faced war on all sides of their reservation. Agent Peter Elder temporarily located his headquarters among the Quapaw but moved back north to Fort Scott in 1861 to evade rebel forces in Indian Territory. The most attention the Osages received from the federal government throughout the Civil War focused on ensuring tribal members remained loyal to the Union. Agents typically reported the Osages as remaining "in their country, in their usual quiet and loyal way."²¹ The Osages vowed their loyalty to the Union early in the conflict and continued to support the federal government by sending 400 warriors to fight on their behalf in 1862. Tribal members also patrolled their reservation to ensure settlers and confederate soldiers did not steal what precious resources remained. In 1863, Osage members brought twenty Confederate soldiers to authorities for prosecution for theft on their reservation. Elder estimated that around 1,000 Osages had allied themselves with the Confederacy, but it is not clear if this number was exaggerated or if all of those individuals actually mustered into the Confederacy or just sympathized with the Southern cause. What is clear is that Osages who joined either the Union or Confederate forces used the opportunity to procure food and resources for themselves as well as to alleviate the desperate

²⁰ Elder, "Office of the Neosho Indian Agency, Fort Scott, September 12, 1862," 288.

²¹ P. P. Elder, "Office Neosho Indian Agency, Ohio City, September 15, 1864," in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D. C.: 1864), 316.

situation on the reservation. It is possible that those who enlisted realized if they stayed on the reservation, they would further drain the resources of the tribe, which would cause the Nation to suffer even more than they already had.²²

During the Civil War, military engagements did not occur on the Osages' reservation, but they did see the effects of war through the dramatic increase in the number of people traveling through their lands. Soldiers going to and from various outposts and battle sites crisscrossed the Osage reservation. Many troops camped near tribal members, especially in Indian Territory, targeted Native villages as available sites for pillaging and raiding to procure supplies. Soldiers did raid Osage settlements, but more frequently, the Osages witnessed members of the Wyandotte, Quapaw, Shawnee, and Seneca Nations from Indian Territory fleeing their homes as refugees to avoid the near-constant raids and community disruption by guerilla warfare. Additional individuals within the borders of the Osage Nation continued to strain the already limited resources of the tribe, but tribal leaders allowed the refugees to stay with them as a form of solidifying alliances through compassion.²³

Many members of the Quapaw, Seneca, and Shawnee tribes chose to leave Indian Territory and seek temporary homes among Kansas tribes as refugees. The Osages' large reservation proved to be a prime location for many refugees. Seeing the confusion wrought by the conflict among the tribes, the federal government decided to negotiate a land cession treaty from the Osages in 1863. After much debate and assurances that Father Schoenmaker, the local catholic priest who operated the Catholic Mission and provided the first western-style school for

²² P. P. Elder, "Office Neosho Indian Agency, Fort Scott, Kansas, 1861," in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D. C.: GPO, 1861), 652; Elder, "Office of the Neosho Indian Agency, Fort Scott, September 12, 1862," 288.; P. P. Elder, "Office of Neosho Indian Agency, September 20, 1863," in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D. C.: GPO, 1863), 185.

²³ Baird, 53; Peter P. Elder, "Office Neosho Indian Agency, Fort Scott, September 12, 1862," 287-288.

Osage children, would be retained at the Osage Mission, the Osages agreed to cede a twenty-five by a fifty-mile rectangle of land from the eastern edge of their reservation. The federal government secured this initial reduction of their reservation by informing tribal members that the land would be settled by Native American refugees from the Civil War. Tribal leaders once again placed their Native allies and relationships first as they ceded a portion of their lands.²⁴

Although both parties agreed to the 1863 treaty and refugees from Indian Territory settled on Osage lands, the historical records do not indicate the Senate ratified the treaty. There is no record of additional annuities or payments for the use of the lands, so it seems as though Congress had their hands full with what they deemed more pressing matters and neglected to officially approve the land cession. What is well documented is that this portion of Osage land came up again during discussions of land cessions in both 1865 and 1868. Tribal leaders understood the desires of settlers and the federal government alike and suspected additional discussions of land cessions would continue until their reservation ceased to exist.²⁵

The United States expected to benefit from the Osages' position at the border between Kansas and Indian Territory since they assumed the Osages and their warriors would serve as a buffer against Confederate troops. The Union remained concerned about the spread of rebel forces to the western plains, and they credited the Osage Nation with key counterattacks and patrols of their lands and south toward the Verdigris River, where they successfully disarmed and attacked roving bands of Confederates soldiers. Although the Union, particularly Major Jacob Downing, who had troops stationed in Humboldt, Kansas, treated the Osages as pawns

²⁴ Regional Superintendent Coffin also proposed a cession of a twenty mile wide stretch taken from the northern edge of the Osage reservation which did not occur at this point, but did remain a point of discussion until the Osages signed another land cession treaty in 1868. W. G. Coffin, "Fort Scott, Kansas, June 10, 1863," in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D. C.: GPO, 1863), 204-205. Sells, "Southern Superintendency, Lawrence, Kansas, October 16, 1865," 257; Elder, "Office of Neosho Indian Agency, September 20, 1863," 185.

²⁵ *Osage Nation of Indians v. United States*, 1951.

throughout the Civil War, Superintendent Coffin thanked the Nation for their assistance to the Union by defending their territory. Coffin rewarded the tribe by providing additional gifts and supplies, estimated at around \$2,000 to \$3,000, at a council meeting with nearly 2000 tribal members present. The much-needed attention and supplies reportedly put the Osages “in high glee and good humor.”²⁶ The additional assistance from the federal government helped support the Osage Nation and sustain tribal members during particularly lean years.

John Schoenmaker, the Osage Manual Labor School superintendent at the Osage Mission, stated tribal members suffered due to the “disturbed and turbulent state of our part of the country.” Schoenmaker reported that before the Civil War, the Osages made great strides towards “civilization” and had started to build permanent homes, fences and some had even embraced western-style agriculture. However, in his opinion, the disruption of the war resulted in the Osages reverting to their “primitive ways” by relying on hunting rather than farming. This is yet another example of how the Osages reacted to their environment, quickly adapted, and as a result, sustained their people through a difficult period. Tribal members might have accepted “civilization efforts” in a stable environment, but due to the number of farms that had been destroyed and the many head of livestock that had been stolen, they recognized the western world’s view of “civilization” no longer matched their goals. During this volatile period, tribal leaders concerned themselves with stabilizing the tribe rather than placidly conforming to the federal government's desires.²⁷

²⁶ W. G. Coffin “Southern Superintendency, Leavenworth, Kansas, September 24, 1863,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1863), 173; W. G. Coffin, “No. 106, Fort Scott, Kansas, June 10, 1863,” *Ibid.*, 207.

²⁷ The term “civilization” refers to the efforts made by white, predominantly Christian men and women who believed that Native Peoples were “uncivilized” and needed to be taught Christianity and protestant values in order to become “civilized” and ultimately productive members of society. This might have been a popular idea throughout colonial and American history, but it negates the fact that Native Peoples, the Osages included, had and still have advanced civilizations, governments, and laws. Since these ideas are inherently false and racist,

By 1864, the trials and tribulations of the Civil War had increased exponentially. Schoenmaker reported that the Osages had received no annuities for the previous year, and the supplies and livestock that remained were dwindling rapidly. In addition, he stated that “Travellers, either teamsters or soldiers, have made this place their stopping point, and obliged us to provide provisions for themselves and their animals, frequently without remuneration.” Even if the military officers provided receipts for what they procured during their stay with the Osages, Schoenmaker stated that “quartermasters refused to acknowledge them...” This is only further evidence that the prediction of the little black spider came true: in the end, everyone did come to the Osages and their lands, only people came to take as much as they could for their own profits. Later generations of storytellers who told the story of the spider realized this process would continue throughout Osage history.²⁸

Even though Schoenmaker decried the situation, saying they “cannot continue long,” conditions worsened in 1865.²⁹ Tribal members faced starving conditions, and many resorted to horse theft so they could quickly sell them “to procure bread and clothing.” They reasoned with the agent, saying that if white settlers could steal their horses, why could they not steal the

throughout this work western ideals of “civilization” being adopted by Native Americans will be placed in quotations. When referring to Osage civilization, no quotations will be used. On “civilization,” assimilation efforts, government sponsored boarding schools and native responses, see the following: Brooks, *The Common Pot*; Frederick Hoxie, *A Final Promise: The Campaign to Assimilate the Indians, 1880-1920* (Omaha: University of Nebraska Press, 2001); Robert Berkhofer, *The White Man’s Indian: Images of the American Indian from Columbus to the Present* (New York: Vintage Books, 1979); David Wallace Adams, *Education for Extinction: American Indians and the Boarding School Experience, 1875-1928* (Lawrence: University Press of Kansas, 1995); Margaret Jacobs, *White Mother to a Dark Race: Settler Colonialism, Maternalism, and the Removal of Indigenous Children in the American West and Australia, 1880-1940* (Omaha: University of Nebraska Press, 2011); John Schoenmaker, “Osage Catholic Mission,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1862), 289; Elder, “Office Neosho Indian Agency, Fort Scott, Kansas, 1861,” 652-653; John Schoenmaker, “Catholic Mission, Neosho County, Kansas, September 6, 1867,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1867), 326.

²⁸ John Schoenmaker was the Catholic priest stationed at the Osage Mission among the Osages. Often his name is spelled incorrectly as Shoemaker. John Schoenmaker, “Catholic Mission, Neosho Co., Kansas, September 1, 1864,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1864), 318.

²⁹ Ibid.

settler's horses for trade and sale?³⁰ While horse theft provided some reprieve, the Osages soon faced additional troubles as “unauthorized traders” established trading posts on the reservation. Traders encouraged tribal members to demand payment of their now resumed annuities via cash rather than goods. They reasoned that if tribal members had ready access to cash, they could trade directly with them, but the Osages continued to receive their annuities through goods. Even as tribal members attempted to alleviate their condition through various measures, they did not see measurable improvement until they relocated to Indian Territory.³¹

As if the Osages did not have enough to worry about between the conflicts with other tribal nations or the effects of the Civil War, during the 1850s and 1860s, the Nation faced multiple threats to their sovereignty. The largest of these threats came from settlers who desired the very lands they held — the last of their former homelands. The Osage population included around 3,200 individuals, including 900 braves and warriors, 300 young men, 1,000 married women, 200 young women, and 800 children. Each band lived in separate parts of the reservation and utilized the land for growing seasonal crops and pasturing their countless horses. However, once Kansas statehood began, more and more settlers came to the area and quickly decided the Osages did not utilize the land “properly.” The white settlers started to advocate for removing the Osages so they could procure the fertile land for their own benefit.³² In 1860, Indian Agent Andrew Dorn reported the Kansan “intruders” were “still numerous upon their [the Osages'] reserve,” but even after being told to vacate the area in May of that year, the settlers refused to move. Instead, they began cutting the few trees on the Osages' reservation to build permanent settlements. The Osages “now demand their [the Kansas settlers] removal by force.”

³⁰ Sells, “Southern Superintendency, Lawrence, Kansas, October 16, 1865,” 258.

³¹ Snow, “Report from the Neosho Agency, Baldwin City, Kansas, September 5, 1867,” 325.

³² Sells, “Southern Superintendency, Lawrence, Kansas, October 16, 1865,” 257; Lamsam and Johansen, 274.

Tribal leaders understood they could no longer wait for conditions to improve and needed to act swiftly to ensure the tribe held on to their remaining lands.³³

When Kansas officially became a state in 1861, white settlers came in droves. The local Indian Agent said trying to stop the settlers would be like “try[ing] to dam the ‘Big Muddy’ with a tea spoon [sic].” Kansas settlers had the full weight of a newly formed state’s legislators and politicians behind their actions, so tribal members and government agents alike felt powerless to stop the trespassing of whites onto Native lands.³⁴ At best, state officials turned a blind eye to the settlers on Osage lands. At worst, those same officials actively “encouraged trespassing.” Kansas Senator James Henry Lane campaigned to have all Native groups, especially the Osages due to the size of their reservation, removed from Kansas in 1862. He viewed the tribe as vulnerable to Confederate influence and could potentially act as a bridge for Confederate forces to enter into Union territory. Likely because of their safety in numbers and knowing they had the support of the newly formed state government, white settlers willingly headed towards the Osage reservation to establish their new homes.³⁵

In an attempt to solidify their legal rights and status, Chief Tchong-Tas-Sab-Be, also known as Black Dog, held a council with other tribal leaders on August 21, 1861, to discuss their options. Tribal leaders knew they needed to protect their people from the growing threat of settlers and squatters coming to their lands, so the Osages decided to adopt a constitution. Having a constitution would protect the Osages by having an officially recognized document that would potentially deter illegal settlement. The Osage Constitution set measures for the establishment of a Tribal Council consisting of fourteen members elected yearly. The Tribal

³³ Dorn, “Office of the Neosho Agency, Quapaw Nation, September 18, 1860,” 344-45.

³⁴ Miner, 124.

³⁵ Mathews, 651, 655.

Council served as both the legislative and judicial branches of the Osage government, meeting regularly to discuss the state of affairs in the Osage Nation and listen to judicial cases brought to them by tribal members. The executive branch legitimized the authority of the Osage Chief by giving him the title of Chief Magistrate and enabled him and other members of the Tribal Council to negotiate treaties with the federal government. After negotiating treaties, two-thirds of the council had to approve the measures before they could go into effect. In addition to laying out the foundation of their tribal government, the Osage Constitution stated that the document could never be outright abolished. If any “person or persons in the Osage Nation whether citizen or not” who spoke or acted in any means to “subvert this constitution and overthrow the government shall be deemed guilty of treason and on conviction suffer death as shall be prescribed by the legislative council.” These powerful words marked a new era of governing for the Osages and firmly asserted their sovereignty to the Commissioner of Indian Affairs, the Kansas Governor, and President Abraham Lincoln. By enacting a constitution of their own volition at a critical time in United States history, the Osages demonstrated their adeptness in diplomacy to ensure the success and safety of their tribe.³⁶

While the Osages created a powerful constitutional document they hoped would deter anyone from attempting to take their lands, Kansan settlers simply continued to encroach upon the Osages regardless of the legality of their actions. White settlers who inched further and further into Osage territory complicated life for tribal members and ultimately “brought large-scale suffering” to tribal members by stealing their land and their prized horses.³⁷ Nevertheless, even as Kansans stole Osage horses, they denied their actions and instead accused tribal

³⁶ Dennison, 157-160.

³⁷ Smith, *Big Bluestem*, 136.

members of stealing “many more horses than they get.”³⁸ They ignored the fact that when the Osages stole horses from white settlers, they typically retrieved their original stock rather than steal the tired plow ponies of the settlers. By 1867, tensions between settlers and Osages had intensified. Tribal members reported they were afraid to track the horses stolen from them because of the violence perpetrated by the Kansans. They no longer felt safe in their own home due to their hostile neighbors, so instead of attempting more negotiations with the intruders, the Osages consulted with one another about their next course of action.³⁹

The conflict between the Osages and the illegal squatters only intensified as the 1860s progressed. In addition to Kansas settlers stealing horses and attacking Osage hunting parties, they formed what they called “claims clubs.” These “clubs” surveyed the land they called their own so they could proceed with establishing county boundaries and townsites. One of these so-called “counties” even voted on a “\$200,000 bond issue to entice a railroad to its borders.”⁴⁰ To help relieve some of the tensions, Agent Snow decided to temporarily move his headquarters to the Osage reservation for the fall and winter of 1867. After spending the winter mediating between the two parties and urging the settlers to move from the protected reservation, he reported the Kansas squatters were not ignorant of the law. In fact, they told Snow that they “knew they were trespassers...but they were men who wished to ‘fight for their rights.’” The settlers also expressed their displeasure in the federal and state government because neither gave “them each at least a quarter section of this best land for the *great hardships* they had to endure

³⁸ Snow, “Report from the Neosho Agency, Baldwin City, Kansas, September 5, 1867,” 325.

³⁹ Boutwell, 40.

⁴⁰ Baird, 56-57.

among those savages...[emphasis in original].” Chief Paw-Hiu-Skah and Agent Snow were incensed by the boldness of the white trespassers.⁴¹

In an attempt to mitigate the stress the illegal squatters placed on the Osages, Agent Snow, tribal leaders, and Kansas settlers agreed to promote some sort of peace, but even these efforts were tenuous at best. The Osages agreed to allow Kansans who had planted crops to stay on their reservation, but only if they paid fees for the right to stay and harvest their crops. The Osages presented a reasonable solution; the squatters could harvest their crops but then had to leave the reservation unless the federal government opened the land for permanent settlement. This did not happen. Instead, squatters continued to enter Osage lands at unprecedented rates.⁴²

After more than a decade of dealing with the constant invasions of whites and complaints by the Osages that even more squatters had built homes on their lands, the first Agent appointed to the Osages, Isaac Gibson, stated that the troubles would soon be over “to the satisfaction both of themselves and the settlers.” With that, the conversation switched from trying to remove the squatters or the two parties abide by a mutual agreement to the Osages being forced to relocate to Indian Territory.⁴³ This had always been an option in the minds of the Office of Indian Affairs employees and was presented as early as 1860 when Agent Dorn stated, “The Osage are very anxious to reduce the extent of their reserve by ceding a large portion of it to the government by treaty. Having their new boundaries distinctly marked, they can better be protected from the intrusion of their white neighbors.” The last thing tribal members wanted to do was move yet again to avoid white settlers. However, federal employees did not take into account the tribe’s

⁴¹ Snow, “Report from the Neosho Agency, Baldwin City, Kansas, September 5, 1867,” 325; Snow, “Neosho Agency, September 8, 1868,” 271.

⁴² Mathews, 652-653, 686; Boutwell, 41.

⁴³ Ely S. Parker, “Report of the Commissioner of Indian Affairs, Washington City, D.C., October 31, 1870,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1870), 6.

desires. The Office of Indian Affairs wanted to implement what they hoped would be the “simplest solution.” In their minds, relocating the Osages proved to be the most advantageous option for both the “settlers” and the government.⁴⁴

As John Joseph Mathews told the story, with statehood occurring on January 29, 1861, Kansans “had finally attained numerical superiority over the Little Ones, and [they] became more and more arrogant.” Neither the Osages nor any other Native group was included in any of the discussions leading to statehood. Rather, Kansans expressed the need for the Osage Nation to be moved to Indian Territory because, as they argued, the federal government could no longer protect them in their current reservation. Kansas legislators used rhetoric to express concern for the safety of the tribe, but in reality, the Osages’ presence hindered white settlement on valuable land. Kansas Senator Lane introduced a bill in December 1862 that, if passed, would have removed all Native Americans from the state of Kansas. Lane argued that the Osages needed to be removed “since their reserve was in the middle of white settlements and the whites were pressing in on them from all sides and destroying them.”⁴⁵ This bill would have placed the Osages on a “diminished reservation, with the means and facilities therein, in a condition to secure their future happiness.” The bill did not succeed, but it is telling that Lane recognized the stress and strain his citizens placed on the Osages, yet he refused to remedy the situation through a beneficial course of action for anyone other than white Americans. Tribal members attempted to repair their severely damaged relational web by relying on one another. Tribal leaders looked to rebuild external relationships and potentially even negotiate with their closest neighbors, the

⁴⁴ Dorn, “Office of the Neosho Agency, Quapaw Nation, September 18, 1860,” 344.

⁴⁵ Mathews, 651, 655, 654, 659.

Kansans settlers, but Senator Lane and the many squatters revealed their racism as they attempted to remove the Osages from Kansas altogether.⁴⁶

Kansan settlers and legislators believed the federal government would promptly remove the tribe to another reservation. Indian Agents never failed to pose this potential solution to the Osages. During the Civil War, Superintendent Coffin praised the tribe for helping the Union cause and quickly turned to say he could “use their friendship” to negotiate a treaty for additional settlements.⁴⁷ When the Osages continually faced theft from white settlers, the agent recommended several solutions, including moving to Indian Territory so the tribe could be “near their hunting-ground, and far away from the influence of the white settlers.”⁴⁸ Discussions and negotiations concerning relocation started and ended with Indian Agents rather than an expressed desire by the Osages themselves. In 1862, Elder stated the Osages are poor and now “exceedingly anxious to treat away a portion of their lands for permanent aid from the government,” yet there is no corroborating evidence that the Osages themselves felt the same way.⁴⁹

Indian agents and other government officials used rhetoric stating they believed moving the Osages to Indian Territory was for their good and in their best interest. However, the agents’ frustrations with what they perceived as “laziness” from the Osages revealed themselves over time. For example, Agent Snow openly degraded the Osages’ way of life by saying they “made but little advancement in civilization...[they] still dress in the ‘blanket,’” and without the buffalo and its “flesh and tallow they cannot subsist.”⁵⁰ Others stated tribal members frequently went to

⁴⁶ Elder, “Office of Neosho Indian Agency, September 20, 1863,” 185.

⁴⁷ Dorn, “Office of the Neosho Agency, Quapaw Nation, September 18, 1860,” 344; Coffin, “Southern Superintendency, Leavenworth, Kansas, September 24, 1863,” 171.

⁴⁸ Sells, “Southern Superintendency, Lawrence, Kansas, October 16, 1865,” 258.

⁴⁹ Elder, “Office Neosho Indian Agency, Fort Scott, September 12, 1862,” 288.

⁵⁰ Snow, “Report from the Neosho Agency, Baldwin City, Kansas, September 5, 1867,” 324.

local traders who sold much-needed sundries, but “also the elegant ‘flubdubberies’ which made up the Indian wardrobe, peculiarly characteristic of the Osages.” By describing the Osages in such a manner, the agents laid the groundwork for removal by presenting the Osages as ignorant, “primitive,” and an impediment to “manifest destiny.”⁵¹

Neither Indian agents nor white settlers worried about how their language affected the Osages. White Americans were convinced the Osages, along with other Native peoples, would eventually “die out,” as anthropologist Garrick Bailey explained. Americans believed that between their “civilization” efforts, disease, poverty, and quickly receding lands and resources available for Native existence, Native Americans would simply disappear. The “vanishing race theory” permeated societal ideas during this period and was viewed by most “humanitarian reformers” to be a highly desirable outcome.⁵² Captain Richard Henry Pratt, who started the Carlisle Boarding School and inspired the development of off-reservation boarding schools to educate and “civilize” Native Americans, stated, “before long this tribe will be gone” at the end of one of his speeches. Despite these racist beliefs, the Osage Nation actively asserted its authority and relied on the relationships between tribal members to remain a strong presence in southern Kansas.⁵³ They utilized legal standing and their newly formed constitution to assert their rights to the land. Internally, the Osages relied on one another through the strength of their relational web to survive threats of violence and removal while maintaining their culture and nationhood. These multi-faceted efforts allowed the Osage Nation to discuss their situation with government officials from a powerful stance.

⁵¹ Tillie Karns Newman, *The Black Dog Trail* (Boston: Christopher Publishing House, 1857), 136-137.

⁵² Garrick Bailey in Sherwood Ball and Celia Xavier, dirs. *Osage Tribal Murders* (Los Angeles: Ball Entertainment, LLC, 2010), DVD.

⁵³ Captain Pratt, Third Session, *Report of the Twelfth Annual Lake Mohonk Conference on the Indian and other Dependent Peoples* (n.p.: Lake Mohonk Conference, 1894), 70.

White settlers encouraged Osages to move by urging them to cede at least a portion of their Kansas lands. The continual pressure and requests for negotiations by Kansans led to Congress approving a treaty commission to meet with the Osages at Canville's Trading Post in 1865. The treaty commission phrased the negotiations as a form of protection from white settlers, but as historian David Baird states, the government "could not or would not impede the greed of its citizens, it simply accommodated it."⁵⁴ Osage leaders willingly met with the treaty commission, not because they were eager to cede their lands but rather, they believed the drafting of a new treaty would benefit their current situation. The Osages presented their concerns and requested more protection from white trespassers, as well as the goods promised by the government as stated in the 1839 treaty. Although the Osages remained in a poor state due to their ongoing hardships, tribal leaders understood they needed to be careful as they proceeded with negotiations lest they find themselves signing documents that proved harmful for the tribe. For example, when the treaty commissioners arrived in 1865, tribal leaders made an "earnest inquiry" about a shipment of goods delivered to them in June 1864. While tribal members needed the dry goods at the time, tribal leaders wanted assurances that the supplies were "presents" and not "payment." The Osages understood from their previous interactions and negotiations with colonial powers as well as the Americans that simple misunderstandings could jeopardize their whole community.⁵⁵

When government officials arrived at the Osage reservation and began discussions of ceding lands, tribal members separated themselves into two divisions as to what action would be best for the Nation. While tribal members held differing opinions on previous issues, this divide was dramatic and tended to run along generational lines. During the negotiations, William

⁵⁴ Baird, 54-55; Lamsam and Johansen, 274.

⁵⁵ Elder, "Office Neosho Indian Agency, Ohio City, September 15, 1864," 316.

Sturges, the President of Leavenworth, Lawrence & Galveston Railway Company, coveted the Osage reservation and desperately wanted an opportunity to purchase the entirety of the Osages' land. To increase the chances of the treaty commission entertaining his offer, Sturges partnered with James Frederick Joy, a former politician from Michigan who, after working as a lawyer for the Michigan Central Railroad, organized the Chicago, Burlington, and Quincy Railroad. Sturges and Joy lobbied to purchase the entire reservation from the Osages with the assurance that the tribe would move to Indian Territory. When treaty negotiators brought this before the Osages, the younger generation emphatically did not want to sign a treaty that provided benefits for the railroad company. However, the older generation considered the offer and was more willing to agree even if it meant "lucrative considerations" for railroad magnates.⁵⁶

Tensions between tribal members rose, and negotiations came to a standstill. The divisions in the tribe frustrated Agent George Snow, who wrote a letter expressing his true feelings. He stated that Chief Pah-Hiu-Skah, also known as White Hair, was "bitterly opposed" by Joseph Pawnee-No-Pa-She and Wa-To-In-Ka. Snow expressed his concern about the contentious factions that had developed in response to the treaty, and he started to believe he might need additional support via the military to control the dissenting faction. Snow stated that if he had more "military force," he would have arrested both Joseph Pawnee-No-Pa-She and Wa-To-In-Ka and even proposed the possibility that "the government will have to intervene in this matter and put down this faction so the chiefs can rule their people." Although Snow expressed his concern, the Osages recognized that such a significant decision could not and should not be taken lightly. Relationships between tribal members remained a vital part of the Osages' relational web, but that did not mean they consistently agreed about the direction the tribal nation

⁵⁶ Miner and Unrau, 98, 121.

should take. Because of the importance of relationships between tribal members, even if tensions and factions grew contentious, the integrity of the Osage Nation and their relational web remained intact. In the end, tribal leaders took the treaty commission back to the negotiation table and prevented the railroad companies from gaining exclusive purchasing rights to Osage land.⁵⁷

On September 29, 1865, the Osages signed the Canville Trading Post Treaty and ceded four million acres of land in Kansas, the equivalent to half of their reservation. The ceded lands consisted of a thirty by fifty-mile rectangle along their eastern border and a twenty-mile stretch across the reservation's northern border. These areas had consistently seen the most conflicts between squatters and tribal members, and since white settlers had founded several towns in the area, the federal government focused on ceding those lands first.⁵⁸ By recounting the tribe's "greatly impoverished" condition and the fact that they had "more lands than are necessary for their occupation," the treaty emphasized the beneficial nature of the so-called "diminished reservation" would be for the Osages. The treaty also stated that the tribe was dependent on the United States, and if they remained peaceful and "promise to abstain from war, and commit no depredations on either citizens or Indians," they would have the protection of the American military forces. While it might have included an air of respect for the Osages, the protection provided by the federal government had been and would continue to be too meager to prove much assistance to the tribe when they needed it the most.⁵⁹

⁵⁷ In order to gain further support for the treaty there appeared to have been some requests for Agent Snow to remove White Hair as the chief, but Snow reported "it would not do for an agent to appoint a chief contrary to their custom" or against the Osage Constitution. George C. Snow to W. Byers, December 29, 1866, Box 415040, Old Neosho Agency Correspondence, RG 75, National Archives, Fort Worth, Texas (Hereafter referred to as NARA-FW).

⁵⁸ Miner and Unrau, 121.

⁵⁹ Canville Trading Post Treaty, September 29, 1865 in Fitzpatrick, 20, 24-25.

The Canville Treaty ensured that some Osages living in the areas outlined to be ceded and sold could remain there if they chose to do so. To qualify to stay in the ceded areas, the individuals had to be “half-breeds of the Osage tribe” or those with mixed-race heritage from intermarriages between European traders from the eighteenth century.⁶⁰ Government officials saw these individuals, their lighter skin, and western-style education and believed they could live independent lives apart from tribal communities and be “civilized” enough to resist the negative influences they might encounter from settlers and immigrants coming to the area. If these members of the Osage Nation wished to stay on their lands, the government would provide them with a “patent...in feesimple [sic] for eighty acres each.” In stark contrast, full blood Osages did not have the opportunity to remain on the ceded lands. Instead, they were forced to relocate to the now “diminished reservation.”⁶¹ By moving the Osage mixed bloods away from the majority of the tribe, the Osage's relationships with one another stretched to maintain their cultural connections with all tribal members.

The Canville Treaty stipulated the federal government would purchase 844,000 acres outright for \$300,000, while the remaining acreage would be sold “for the benefit of the Indians.” The financial benefit of their sold lands equaled \$300,000 that was placed in the US Treasury and grew at five percent interest per year. The interest earned would then be distributed yearly to pay for building houses and structures, purchasing livestock and farming implements, and pay the salaries of a physician and mechanics to help “enable said Indians to

⁶⁰ On intermarriage between European traders and Osages as a way to strengthen trading networks see, Willard H. Rollings, *The Osage: An Ethnohistorical Study of Hegemony of the Prairie-Plains*. (Columbia: University of Missouri Press, 1992) and Tai Edwards, *Osage Women and Empire: Gender and Power* (Lawrence: University Press of Kansas, 2018).

⁶¹ Canville Trading Post Treaty, September 29, 1865 in Fitzpatrick, 25.

commence agricultural pursuits under favorable circumstances.” In addition, the chief of the Nation received \$500 per year to help support the tribe and their government.⁶²

The Canville Treaty also provided a measure funding schools for the Osages. Tribal members had access to the Osage Mission School since the 1840s and wanted that privilege to continue on their now “diminished reservation.” To make this a possibility and to continue funding schools and education for the tribe, treaty commissioners informed tribal leaders that the government would establish a “civilization fund.”⁶³ The Osages agreed to this line of funding because they understood the civilization fund would directly benefit the tribe. However, federal employees misrepresented the facts, and instead of the sale of their lands benefitting Osage tribal members alone, the federal government used the civilization fund to establish schools and education programs throughout the country for all Native peoples. Later, tribal members realized what had happened and expressed their displeasure since they “haven’t seen any of this money come to support the Osages themselves – even when they requested additional money and support in the last few lean years.”⁶⁴ In fact, the net amount of the civilization fund equaled \$776,931.58, but the only money given to the Osages from this specific fund equaled \$189.55 for seeds in 1880. The Osages were especially disappointed with the use of their money since the government relied on the civilization fund to establish off-reservation boarding schools like Carlisle Indian School, which sought to “kill the Indian, to save the man.”⁶⁵

⁶² Miner and Unrau, 121; Canville Trading Post Treaty, September 29, 1865 in Fitzpatrick, 21-22, 24.

⁶³ Canville Trading Post Treaty, September 29, 1865 in Fitzpatrick, 24; Smith, *Wahzhazhe*.

⁶⁴ Cyrus Beede, “Osage Agency, Indian Territory, August 20, 1877,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1877), 94; *Osage Tribe of Indians v. U. S.* in *Cases Decided in the Court of Claims of the United States, June 1, 1928 to (in part) February 4, 1929*. Ewart W. Hobbs, reporter. 66 (Washington, D.C: GPO, 1929), 74.

⁶⁵ Captain R. H. Pratt, “The Advantages of Mingling Indians with Whites,” in the *Proceedings of the National Conference of Charities and Correction at the Nineteenth Annual Session Held in Denver, Col., June 23-29, 1892*, Isabel C. Barrows, ed. (Boston: Press of Geo. H. Ellis, 1892), 46; Committee on Indian Affairs, “Osage Civilization Fund Hearing on Join Resolution No. 67 (Washington: GPO, 909).

The federal government officially closed the civilization fund on March 3, 1911, due to the depletion of funds. Between 1865 and the 1920s, the Osage Nation constantly attempted to gain access to proceeds from their land sales but were denied. On February 6, 1921, the Osage Nation filed suit against the United States asking for reimbursement for the money that had been stolen from the Osages and disseminated to other tribal nations. They argued that treaty commissioners had deceived the tribe, and the money that should have benefitted their people went to various sources and many other tribes rather than the Osage Nation. They cited that the actual treaty negotiations occurred in Fort Smith, Arkansas, between government officials. Afterward, commissioners presented the treaty to a group of full-blood “blanket Indians, none of them understood or could read, write, or speak the English language” at the Canville Trading Post.⁶⁶ Tribal members and the agent had discussed the treaty prior to the presentation of the official treaty, but even so, official negotiations at Canville took a total of three hours, which did not give adequate time for debate and understanding of the issues. Additionally, the suit brought up the fact that there are no words that directly translate to “civilization” and “fund” in the Osage language, which led to additional confusion. Had the Osages known what the “civilization fund” would be and that it would aid tribes they had considered hostile at the time, such as the Pawnees, Cheyennes, and Cherokees, then they “would not knowingly have agreed.”⁶⁷ Ultimately, the court ruled that “the language of the treaty is unambiguous” and that the Osages did not establish “a claim or right in the form of moneys arising from the sale of the Osage lands

⁶⁶ 36 Stat. L. 1058, Chap 210 (March 3, 1911) in Ralph A. Barney, *Laws Relating to Osage Tribe of Indians from May 18, 1824 to March 2, 1929* Vol. 3 of *The Constitutions and Laws of the American Indian Tribes Series* (Wilmington, DE: Scholarly Resources, Inc., 1973), 60; 41 Stat. L. 1097, Chap 36 (February 6, 1921) in Barney, 70-71.

⁶⁷ “Civilizing the Osages Costly,” *Osage County News*, November 3, 1922.

under said treaty, and that the United States has not wrongfully appropriated any part or parcel of the lands or the funds of said Osage Tribe....”⁶⁸

Before the sale of any Osage lands ceded in the 1865 treaty, government officials insisted that the land in question needed to be surveyed. The Office of Indian Affairs would pay to have lands surveyed, but after the lands sold, a portion of the proceeds would be used to reimburse the federal government for the surveying teams. However, it seems as though the Osages, official interpreters, and treaty officials were confused about precisely what lands were in the survey area. The Osages and many others thought only the ceded lands would be surveyed, but the surveyors went ahead and surveyed the entire reservation charging \$60,000. This price came as a shock, and Agent Snow stated that the sales of the eastern lands were not even assured to cover the cost of surveying the lands. What started as a way to provide the Osages some relief from the constant pressures of settlers and their impoverished condition quickly turned into a situation that could saddle the Osages with additional debts.⁶⁹

Treaty officers saw the negotiations as a stepping stone for the cession of the entire Kansas reservation in exchange for lands in Indian Territory. In this vein of thought, they included a section stating that if the Osages desired to leave Kansas entirely, their “diminished reservation” would be sold, and up to fifty percent of the proceeds would be available to purchase a new reservation. Although Osage tribal members did not want to give up any additional lands, treaty officials hoped that one land cession would lead to another and ultimately put a stop to the discussions and requests for mediation between Kansas settlers and the Osages.

⁶⁸ *Osage Tribe of Indians vs. U. S.* 66 Ct. CL (1928), 71-73, 80, 82.

⁶⁹ Canville Trading Post Treaty, September 29, 1865 in Fitzpatrick, 21; G. C. Snow, “Neosho Agency, July 24, 1869,” 381.

This became much more immediate after government officials saw settlers desperately trying to access the Osages' recently ceded lands.⁷⁰

As per the stipulations of the Canville Treaty, squatters on Osage lands would not be allowed “pre-emption claims,” but this did not stop Kansans from clamoring for the lands they considered “available.” According to Governor Samuel Crawford, Kansans started “pouring in by thousands among these Indians” just as soon as the treaty at Canville was signed. As a result of the new onslaught of immigration to Osage lands, tribal members were forcibly vacated from their lands before the time stipulated in the treaty. Not only did this put more strain on the Osages, but it also degraded the already tenuous relationship with Kansas settlers. Settlers and squatters heard about the Canville Treaty and were emboldened by the proceedings. Since they believed the tribe would eventually move to Indian Territory, they ignored the new boundaries of the recently ceded lands and pushed further into the Osage reservation.⁷¹ These settlers lodged countless complaints against tribal members, such as their women were afraid of them, the Osages burned their crops and homes, and tribal members even dared to demand rent from the squatters for living on Osage lands. They viewed Osages as “a wild people who lived by hunting and stealing” and as a result, Kansans did not concern themselves with respecting tribal or treaty rights.⁷² As Agent Snow stated, “Immigration rolls on, like the tornado which meets nothing to check it.”⁷³

Agent Snow traveled to the reservation and spoke with many of the white squatters. He told a group of forty to fifty settlers to leave the area because they had settled within the reservation bounds; however, the settlers expressed they already knew they were squatting on

⁷⁰ Canville Trading Post Treaty, September 29, 1865 in Fitzpatrick, 26.

⁷¹ *Ibid.*, 21; Mathews, 685-686.

⁷² Boutwell, 39.

⁷³ Snow, “Report from the Neosho Agency, Baldwin City, Kansas, September 5, 1867,” 325.

Osage lands. They even told Agent Snow that “they would go when I got sufficient force to drive them off.” The squatters believed that the laws have always “been made to protect the squatter, and they think they will not be left out in the cold when the governor of the State [sic] is ‘determined to protect them at all hazards.’”⁷⁴ The squatters’ statements seem exceptionally bold and defiant, but when paired with the actions of the Adjutant General of Kansas in 1867 authorizing the shipment of “arms and ammunition to the settlers in order that they might sustain themselves on the Osage land,” their insistence the state would protect them becomes less theoretical.⁷⁵

The Osage Nation found themselves in a precarious position. They had signed away almost half of their original reservation and now existed on a portion called the “diminished reservation.” The very name suggested that the Osage's existence continued to be a minor inconvenience, but likely for not much longer. Tribal members did not like the idea that they had to cede more of their lands, but Osage leaders consented to the Canville Treaty because they hoped white settlers would be appeased and leave the remaining reservation alone. While the Osages moved to their “diminished” lands and waited for the payment from the land cession to help sustain the Nation, settlers and railroad men worked behind the scenes to try to undermine the tribe’s sovereignty and tribal authority.

By 1867, the Osages found themselves surrounded by Kansas settlers pushing into the reservation up to five miles beyond the boundaries demarcated in the 1865 treaty. The settlers’ presence threatened their lifestyle through the theft and destruction of tribal member’s property,

⁷⁴ Snow, “Report from the Neosho Agency, Baldwin City, Kansas, September 5, 1867,” 325.

⁷⁵ Mathews, 651; Boutwell, 41.

crops, and livestock.⁷⁶ Nathaniel Taylor, the Commissioner of Indian Affairs, wrote on November 15, 1867, that “nothing will keep them off except a military force...for they pay no attention to what the officers of the Indian department may say.”⁷⁷ Because of the increased number of settlers, the Osages feared retaliation and refused to pursue their stolen horses. As a result of the theft, loss of lands, and continued conflicts with plains tribes, the Osages were, as Agent Snow reported, “*very destitute*” and “near suffering for provisions.” He also stated the Osages suffered from the loss of thirty-nine lodges and 328 horses and that “*Something must be done for these people at once* [emphasis in original].”⁷⁸ He suggested order could be restored with the presence of soldiers since Kansans had been “threatening the Indians with ‘extermination.’” For those “half-breeds” who chose to stay in their homes on the ceded portion of the reservation, conditions proved to be untenable. They immediately faced threats by settlers and by 1869 had been “driven off their claims” entirely.⁷⁹

The sheer number of Kansans squatting on Osage lands “discourage[d] the greater part of the Osages,” and many of the younger warriors demonstrated “mistaken notions,” as Father Schoenmaker stated, by planning attacks against squatters.⁸⁰ By 1868, so many Kansans had settled on the northern part of the Osage reservation that they tried to file paperwork to incorporate their “settlements” into proper towns and gain further support from the Kansas government. One of these towns, located along the Chisolm Trail on the northern edge of the Osage lands, is now known as Wichita. Although the federal government halted the incorporation process, Agent Snow realized that without the Kansas government’s compliance

⁷⁶ Miner and Unrau, 138; Snow, “Report from the Neosho Agency, Baldwin City, Kansas, September 5, 1867,” 325.

⁷⁷ Thomas Murphy to C. E. Mix, November 15, 1867 in House Committee on Indian Affairs, Message from the President of the United States in Reference to a treaty now being negotiated with the Great and Little Osage Indians, H.R. Ex. Doc. No. 310 (1868) (hereafter referred to as H.R. Ex. Doc. No. 310), 3.

⁷⁸ Mathews, 659-600, 666.

⁷⁹ Snow, “Neosho Agency, July 24, 1869,” 381.

⁸⁰ Schoenmaker, “Catholic Mission, Neosho County, Kansas, September 6, 1867,” 326.

with federal treaty laws as well as military support, the Osages would not be able to stop settlers from entering their lands. As a result, he began advocating for a new treaty to be drafted, and believed removal to Indian Territory “should be accomplished, if possible.”⁸¹

Tribal leaders requested to send a delegation to Washington to discuss the increasingly hostile situation with their Kansas neighbors. They, too, desired to talk about the possibility of negotiating a new treaty. While the Superintendent of Indian Affairs, the Commissioner of Indian Affairs, and the Secretary of Interior agreed negotiations with the Osages would be wise, they did not have funding available for the delegation’s accommodations to travel to Washington. After considerable discussion leading to the resurgence of tribal factions, the Osages declined to visit Washington so they could retain a more significant presence on their reservation as a deterrent for additional squatters to “claim” land.⁸² When St. Louis newspapers publicized the Osages had planned to leave for Washington to discuss a new treaty, Agent Snow learned “there are hundreds of persons in Kansas making arrangements to go down on the Osage lands to make claims as soon as the Osage delegation leaves for Washington.” Tribal leaders feared that while they negotiated in Washington, their “women and children will be driven from their camps...”⁸³ Secondly, tensions between the Osages and the Cheyenne and Arapahoes remained high due to the Osage Nation rebuffing their request for support during their war against the United States. Rather than leave their families unprotected, Joseph Pawnee-No-Pa-She, then Governor of the Osage Nation, requested government officials travel to Kansas to discuss the current situation.⁸⁴

⁸¹ Miner and Unrau, 123; Snow, “Report from the Neosho Agency, Baldwin City, Kansas, September 5, 1867,” 325.

⁸² Thomas Murphy to Hon. C. E. Mix, November 15, 1867 in H.R. Ex. Doc. No. 310, 3; Charles E. Mix to Hon. O. H. Browning, December 2, 1867, *ibid.*, 4; O. H. Browning to C. E. Mix, December 3, 1867, *ibid.*

⁸³ George C. Snow to Colonel T. Murphy, February 16, 1868 in *ibid.*, 8-9.

⁸⁴ Thomas Murphy to Hon. O. H. Browning, March 26, 1868 in *ibid.*, 10-11.

The Secretary of the Interior approved a commission including Nathaniel G. Taylor, the Commissioner of Indian Affairs, Thomas Murphy, the Superintendent of Indian Affairs for the Central Superintendency, George C. Snow, the Osage Indian Agent, and Albert G. Boone, the Special Commissioner to locate Indian lands, to travel to the Osage Reservation. The commission eagerly sought to permanently remove the Osage Nation to Indian Territory since they believed this one action would eliminate all the Osage's current conflicts. While the treaty commission came to discuss their own agenda, Joseph Pawnee-No-Pa-She, understood the tribe needed to communicate their desire to live peaceably on their lands, but if needed, tribal leaders would fight for their rights in order to maintain their sovereignty. So far, their relational web had remained intact due to tribal members relying on one another for support, but Joseph Pawnee-No-Pa-She's desire to restore the strength of the Osage Nation meant they needed to focus on building relationships with their Kansas neighbors and other tribal entities. Many hoped the treaty commission would allow for new relationships to form.⁸⁵

The treaty commission that arrived on the Osage Reservation, and the presence of William Sturges, the president of the Leavenworth, Lawrence, and Galveston Railway Company, marked the beginning of treaty negotiations to move the Osage Nation to Indian Territory. The federal government desired to secure a total land cession from the Osages, but the commissioners had been influenced by many others who wanted to succeed in advancing their own desires for Osage lands. Kansas senator Edmund Ross made it abundantly clear that as long as the Osage Nation possessed what equaled one-tenth of the lands in Kansas, it would continue to be “a

⁸⁵ Joseph Pawnee-No-Pa-She was from Joe's Band, was considered a Star Chief later in life. Burns, Louis F., *Osage Indian Bands and Clans* (Fallbrook, CA: Ciga Press, 1984), 15; Louis F. Burns, *A History of the Osage People* (Tuscaloosa: University of Alabama Press, 2004), 55; Drum Creek Treaty, May 27, 1868 in Fitzpatrick, 28-43; H.R. Ex. Doc. No. 310 (1868), 2; Haskell Institute Club, *The Osage Nation and History of Its People* (Pawhuska, OK: H. I. Club, 1930), n.p.

barren and unproductive waste; practically a desert and a refuge for outlaws within the State.”

While denigrating the presence of the Osages in Kansas, Senator Ross feigned concern for the future of the tribe and impressed upon the commissioners the benefits they would experience by relocating to Indian Territory. While Kansas settlers, representatives, and the Osages themselves had much to say about moving to Indian Territory, the one person who secured the highest position of influence among the commissioners was William Sturges. Due to his influence in the treaty proceedings, this study will refer to the 1868 negotiated treaty as the Sturges Treaty.⁸⁶

The executives of the Leavenworth, Lawrence, and Galveston Railway Company planned to expand westward to the Gulf of Mexico, but to secure that future, they desired to be the sole owners of Osage lands in Kansas plus obtain the entirety of the Cherokee Strip in the northwest portion of Indian Territory. If they succeeded, this would place Sturges and his railroad as the first railroad to cross Indian Territory, bringing more supplies to tribes, more accessible routes to the West, and eventually more settlers wanting to reside within Indian Territory. Sturges proposed purchasing far more acreage than the railroad needed because they wanted to purchase the land from one individual (in this case, the federal government) and prevent other railroads from gaining access to Indian Territory. Sturges planned to sell the remainder at land speculator prices, thereby lining his pockets and defrauding both the Cherokees and Osages in one decisive action. The executives for the railroad company proved excellent lobbyists and managed to gain the support of every member of the commission to negotiate the new treaty with the Osages.

How this lobbying process occurred might never be unveiled due to the many backroom dealings

⁸⁶ The treaty of 1868 has been referred to by many names including the Drum Creek Treaty, the mistakenly titled Plum Creek Treaty, the failed treaty of 1868, and the Sturges Treaty. This treaty is most frequently called the Drum Creek Treaty due to the location of the proceedings, but this causes confusion with the 1870 treaty with the Osages that officially legislated their removal to Indian Territory since it has the same name. In order to clarify the existing record, the 1868 treaty will be called the Sturges Treaty, after William Sturges who was the head of the board for the Leavenworth, Lawrence, and Galveston Railway, and the 1870 treaty will be referred to as the Drum Creek Treaty. Edmond G. Ross to Hon. O. H. Browning, December 10, 1867 in H.R. Ex. Doc. No. 310, 5-6.

that hallmarked the burgeoning of Gilded Age politics, but what is clear is the biased favoritism displayed in the proposed Sturges Treaty.⁸⁷

The Leavenworth, Lawrence, and Galveston Railroad executives met with the treaty commissioners at a secret meeting just before the treaty negotiations began with tribal members. The railroad proposed purchasing all of the Osages' "diminished reservation" in addition to the twenty-mile-wide strip that the Nation had ceded in the 1865 treaty. They offered to pay the Osages \$1.6 million for the entirety of the Kansas reservation and agreed to pay \$100,000 in cash within three months of the treaty's ratification. The remainder would be paid over fifteen years at \$100,000 each year. While seemingly a high price for the reservation, the Osages would only receive twenty cents per acre even though the federal government had previously set the price for Osage lands at \$1.25 per acre during the negotiations of the Canville Treaty. Sturges and his conspirators advocated that their proposed treaty superseded the Canville Treaty, thereby eliminating any price per acre stipulations. The treaty commission agreed to these provisions, which demonstrates the significant corruption the Osages faced.⁸⁸

In addition to being paid significantly less than their lands were worth, the Osages would never have the entire \$1.6 million at their disposal. Instead, the Leavenworth, Lawrence, and Galveston Railway would provide the first payment of \$100,000 in cash, while railroad bonds

⁸⁷ The Leavenworth, Lawrence, and Galveston Railroad was one of three railroads in a competition to reach Indian Territory first. Secretary of Interior, Jacob Cox wrote to President Ulysses S. Grant that "preserving the Indian Territory as free as possible from intrusion by white settlers" needed to remain a priority since tribes in contact with settlers "have been, uniformly, injured by drunkenness and other vices, which they seemed peculiarly unable to resist." Therefore, Congress limited rail line construction through Indian Territory to be limited to one railroad entering from the east and one line entering the territory from the north. On the three railroads attempting to gain exclusive access to Indian Territory, see Robert Collins's *The Race to Indian Territory: Three Railroads, Their Struggle, and Their Ultimate Fates* (Wichita, KS: Fast Print, 2005). President Ulysses S. Grant, Endorsement, July 20, 1870, in *The Papers of Ulysses S. Grant*, John Y. Simon, editor, Vol. 20 (Carbondale: Southern Illinois University Press, 2012), 204-205; Collins 19-20; Miner, 121.

⁸⁸ Mathews, 667; Drum Creek Treaty, May 27, 1868 in Fitzpatrick, 29; Committee on Indian Affairs, Osage Indians Report to Accompany Bill H. R. 3079, H. R. Report No. 186 (1877), 1; Miner, 121; Haskell Institute Club, n.p.

would constitute the remaining \$1.5 million. Ultimately, tribal leaders could not be assured of payment since railroad companies during the nineteenth century frequently went bankrupt or merged with other companies with little regard for previous agreements made with outside parties. To make matters worse, the bonds could not be directly transferred to cash. Instead, after the company completed the entirety of the proposed railroad, the bonds could be traded for patents. Only then could the patents could be exchanged for cash. In the meantime, Sturges proposed the railroad would take ten years to complete, leaving the Osages holding their bonds, but “utterly destitute of money – their lands sold, but they without the means to purchase others in their stead.”⁸⁹

Obviously, the proposed Sturges Treaty included few benefits for the Osages other than the assurances of the commissioners that the treaty proposals were in the best interest of the tribe. Agent Snow, a vocal member of the commission, belied the strength of the Osage Nation and tribal leaders when he stated, “The Osages, as a nation, are, like children, easily controlled.” Nothing could be further from the truth, but the rest of the commissioners believed Snow due to his history with the tribe. Therefore, the greed of the Leavenworth, Lawrence, and Galveston Railway permeated the commissioners, and the treaty negotiations began on a soured note. The Osage Nation had always been peaceful and reliable allies to the federal government, but when they needed to negotiate a treaty that could better protect their people, the federal commissioners returned the Osage's generosity with corruption and lies.⁹⁰

After a change of location from Camp Locust Grove to Drum Creek due to wet conditions, a presentation of annuity goods, and the promise of rations for all tribal members

⁸⁹ Charles W. Blair, “State Relative to the Osage Treaty,” in Committee on Indian Affairs, Osage Indian Treaty Report, H.R. Report No. 63 (1868), 7.

⁹⁰ Schoenmaker, “Catholic Mission, Neosho County, Kansas, September 6, 1867,” 326.

throughout the negotiations, Nathaniel Taylor started the official proceedings. He started by flattering tribal leaders by praising them for the “chain of friendship” between the United States and the Osage Nation that “has never rusted nor lost a link.” He then quickly moved on to remind the Osages of their trying circumstances living with many more settlers in the area and significantly less game available for food or trade.⁹¹ The initial presentation of the Sturges Treaty emphasized the portions that tribal leaders would readily agree to while he briefly skimmed over the involvement of the railroad company. After opening statements, the commissioners provided the Tribal Council with a copy of the written treaty, and tribal members chose interpreters to oversee the private discussions among themselves. Principal Chief Paw-Hiu-Skah, Che-To-Pah, and dozens of other tribal leaders requested lawyers to review the treaty, but Commissioner Taylor strictly forbade the Osages from consulting with any whites during their private meetings, stating, “The government is your friend, and would not advise you to do anything that was not to your interest.”⁹² Tribal members acquiesced and began to review the treaty for themselves since they had not yet seen the document and all the provisions contained therein; however, they quickly realized the treaty had been grossly misconstrued since it contained very few parts that benefited the tribe.⁹³

The Osages began reviewing the proposed treaty in council and immediately concluded the treaty could not possibly benefit their people. Even the first article misrepresented the Osages position by stating they desired “to dispose of these lands as to aid in the speedy extension of the Leavenworth, Lawrence & Galveston railroad to and through the Indian territory....” Tribal leaders frequently requested the assistance of lawyers of their choosing to

⁹¹ N. G. Taylor, et. al. to the Osage Chiefs, May 13, 1863 in H.R. Ex. Doc. No. 310, 16-17.

⁹² Honorable N. G. Taylor statement, May 18, 1868, in H. R. Ex. Doc. No. 310, 20-21.

⁹³ A. N. Blackledge report, May 20, 1868 in H. R. Ex. Doc. No. 310, 17, 23.

explain, interpret, and advise the tribe but were denied by the commissioners.⁹⁴ After three days, the Osages met with the treaty commissioners to discuss the treaty language further. Twelve O’Clock spoke and expressed his and many others’ confusion concerning how the northern section of their reservation could be sold to the government in 1865, and then somehow the Osages could sell it again to a white railroad owner. Additionally, Twelve O’Clock and Che-To-Pah, both of the Ne-Kah-Ke-Pah-Ne Band, argued the treaty of 1865 had not been fully executed. The Osage people had been left wanting for provisions that had been promised. They believed either the tribe never received all of their rations from the government or the agent “pockets a good deal of it,” to which Twelve O’Clock emphasized his accusation by putting his own hands inside Agent Snow’s pockets. Twelve O’Clock added that when the agency distributed the goods, “some of the bands – one-half of them – do not get anything.”⁹⁵ Nearly every tribal leader present requested the government honor them and the tribe by providing payment for the lands ceded in the 1865 Canville Treaty that had yet to be delivered. They argued that the federal government should honor their previous commitments before asking the Osage Nation to yield additional land.⁹⁶

Osage leaders openly expressed their frustration with the proposed Sturges Treaty. Drum, from the Big Hills band, stated the young Osage men accused the federal government of desiring “to make slaves of our children.”⁹⁷ The Principal Chief, Paw-Hiu-Skah, also known as White Hair by government employees, did not state that his people were becoming enslaved to the Americans, but he did express his displeasure over the current treaty and additional

⁹⁴ Drum Creek Treaty, May 27, 1868 in Fitzpatrick, 28; Z. R. Overman Affidavit in H. R. Report No. 63, 5.

⁹⁵ Twelve O’Clock Speech in H.R. Ex. Doc. No. 310, 24-25; Che-To-Pah speech in H.R. Ex. Doc. No. 310, 25;

⁹⁶ Burns, *Osage Indian Bands*, 16; Osage Annuity Rolls, 1877-1879, Third Roll of 1878 for the Third and Fourth Quarters of 1878, Record Group 75, Bureau of Indian Affairs, National Archives, Washington, D.C. [hereafter referred to as RG 75, NARA-DC].

⁹⁷ Drum speech in H.R. Ex. Doc. No. 310, 27.

unfulfilled promises from the Canville Treaty that had divided his people. He explained that the 1865 treaty had created factions along generational lines since he had agreed to be paid \$1,000 by the government for holding the title of principal chief. Paw-Hiu-Skah agreed to this measure after being informed by an interpreter that every chief would be paid \$1,000 a year, which would have improved the status of younger chiefs, but Congress subsequently denied this provision and left the other chiefs without a way to exert their power among older leaders. He believed because the Osages had “done a great deal for our Great Father – give him great deal of land for his white children...the Great Father ought to take things into consideration and do all he can for his red children.”⁹⁸

The commissioners listened to the Osages' concerns but responded hastily and demonstrated their displeasure that they even questioned the treaty and their intentions. Commissioner Taylor, usually an even-tempered former Methodist minister who believed in “civilizing” Native peoples rather than perusing military action against tribes, lost his patience with the Osage Council. He stated that after only three days at Drum Creek, he had “waited patiently until now,” but the Osages had to decide. After devaluing their lands, Taylor threatened tribal leaders and pressured them to sign the corrupt treaty. He told the Osages that if they refused to sign, the “Great Father” would think, “you can get along with out him” and “If he gets displeased he might not send you those provisions. Where then do you get your living?”⁹⁹

⁹⁸ White Hair speech in H.R. Ex. Doc. No. 310, 28.

⁹⁹ Much like other white Americans examining the “Indian question” as “Eastern Reformers” had started referring to Native Americans who resisted removal and/or assimilation efforts, Commissioner Nathaniel Taylor often did contradictory things. As a vital member of the Indian Peace Commission of 1867-1868 who met with the Kiowa, Comanche, Kiowa-Apache, Cheyennes, and many other plains tribes to sign treaties, he wanted Native Peoples to become “civilized” and reside on reservations, but he disagreed with punishing tribes who had fought against the United States. He vehemently protested transferring the Office of Indian Affairs to the War Department and at times used his position to protect Native Peoples and obtain needed supplies and rations. It is not clear why he responded so harshly to the Osages, but in this case, it is apparent that Taylor had no interest in recognizing the Osage Nation as a sovereign nation but rather as subjugated peoples. On Taylor and his role in the Indian Peace Commission see

Clearly, the commissioners became agitated by the Osages' resistance. They had hoped the negotiations would proceed quickly, thereby causing little suspicion or investigation into the treaty's validity. Therefore, the commissioners tried every tactic they could to convince the Osages to sign the treaty. After a fiery discourse, Commissioner Thomas Murphy tried to assure tribal leaders that if they agreed to sign, "we shall go at once to make peace" with the Arapahoes in the west, thereby removing one of the Osages' threats to a peaceful existence. At this, Paw-Hiu-Skah stated the tribal leaders needed to discuss further.¹⁰⁰

While the Osages discussed the treaty for the second time, the commissioners failed to inform tribal leaders about another offer that had been presented. At the beginning of the discussions, Nathaniel Taylor received a letter from Charles W. Blair, the Missouri, Fort Scott, and Santa Fe Railroad Company president. Blair proposed to pay the Osages two million dollars cash for the entire reservation, which equaled \$500,000 more than the Leavenworth, Lawrence, and Galveston Railway. Blair also stated that if the commission refused to sell the entirety of the reservation exclusively to one railroad company, he would like to have an equal amount of land as the Leavenworth railroad; however, the treaty commissioners denied both of Blair's proposals. Not to be deterred, Blair amended his original proposal to include sections of land for mixed-blood Osages if they wanted to stay in the area. He also agreed to sell any additional land not immediately needed by the railroad to settlers at the previously appraised price of \$1.25 per acre and provide additional accommodations that addressed the concerns of many Kansas settlers. Once again, Commissioner Taylor denied Blair's proposal. The historical record does not explicitly explain why this occurred, but it indicates Sturges and the Leavenworth railroad had

Kerry R. Oman's "The Beginning of the End: The Indian Peace Commission of 1867-1868," *Great Plains Quarterly* 22 (Winter 2002): 35-51.

¹⁰⁰ Commissioner Taylor speech in H.R. Ex. Doc. No. 310, 30-31; Colonel Thomas Murphy remarks in H.R. Ex. Doc. No. 310, 32.

the treaty commission in their pocket and perhaps had even offered bribes to the Commissioners. Whatever the reason, it is abundantly clear the treaty commissioners refused to consider what would be best for the Osage Nation, the government, or settlers.¹⁰¹

During the second closed-door council, Osage leaders could not come to a decision, so they turned the matter over to the headmen and counselors of each band so they could also weigh their opinions. After more discussions, Wat-Ti-Nu-Ka of the Strike Axe Band told the council they would consider selling all of their lands for one dollar per acre except for a twenty-five-mile section which would be transferred to Indian Territory to establish a new reservation for the tribe.¹⁰² Commissioner Taylor heard this news and assumed the two parties neared a final opinion that seemed favorable for the commission. However, when the Osages presented Wat-Ti-Nu-Ka's proposal to the commissioners, Taylor denied their request stating only a portion of their land was fertile while the rest was all "sandhills and grasshoppers," which he deemed worthless. Taylor also informed the tribal leaders that they must sell the entirety of their reservation so they could use the money for their benefit rather than rely on the federal government. Treaty commissioners assured the tribe would not be charged more than twenty-five cents per acre for their new reservation lands in Indian Territory.¹⁰³ The fact that the Leavenworth railroad only offered nineteen to twenty cents per acre led Joseph Pawnee-No-Pa-She to ask the commissioners, "You want our lands, but why should we sell and buy the home costing us more than what we sell?" As negotiations continued, threats from the commissioners increased, and finally, Taylor angrily stated, "As you have rejected the advice of the Great Father

¹⁰¹ Charles W. Blair to Hon. N. G. Taylor, May 18, 1868 in H.R. Ex. Doc. No. 310, 19; Charles W. Blair to Hon. N. G. Taylor, May 26, 1868 in H.R. Ex. Doc. No. 310, 37-38; N. G. Taylor to Chas. W. Blair, May 26, 1868 in H.R. Ex. Doc. No. 310, 38.

¹⁰² Wat-Ti-Nu-Ka speech, May 24, 1868 in H.R. Ex. Doc. No. 310, 32; Osage Annuity Rolls, 1877-1879, RG 75, NARA-DC; Drum Creek Treaty, May 27, 1868 in Fitzpatrick, 38.

¹⁰³ Joseph Pawnee-No-Pa-She speech, May 25, 1868 in H.R. Ex. Doc. No. 310, 36.

you must take care of yourself.” The Osages remained resolute and refused the treaty without proper consideration of the implications for their Nation. Paw-Hui-Skah ensured the Osage Nation retained their position of strength as they continued to foster their relationship with the federal government; however, this became a herculean task since the treaty commissioners refused to negotiate.¹⁰⁴

Despite Commissioner Taylor’s threats, the Osages remained steadfast. However, an unrelated event involving Osage warriors and the Arapahoes to the west finally convinced the tribal leaders that the best course of action would be to sign the disagreeable and unjust treaty. The Osage Nation had been at war with the Arapahoes on the western plains for some time, which had placed significant stress on the tribe and their resources. Right before the treaty negotiations began, a group of Arapahoes attacked a party of Osages, killing two women and two young men and stole their property. Recognizing the treaty commissioners would arrive at any point, the Tribal Council decided not to pursue a counterattack since the commissioners would look favorably on their peaceful stance. Instead, as Che-To-Pah said and demonstrated to the commissioners, he “dropped the knife” and did nothing. While most tribal leaders attended the treaty proceedings, a group of younger warriors sought revenge for the deaths of their people and returned to Drum Creek holding two scalps. They said they had found a party of Arapahoes at Ni-Cko’n-Cka, or Between the Rivers, and avenged the death of their tribal members by taking the scalps.¹⁰⁵

¹⁰⁴ John Joseph Mathews argues the reason why the proceedings turned increasingly hostile was due to Commissioner Taylor not wanting Kansans to realize that all of the lands would be going to one railroad company. He even said, “These people [Kansans] had few amusements in their grubby lives, and they would be keenly listening, and it would soon dawn upon them that this land would be turn over to the railroad company.” For Taylor, the Osages were pawns caught in the middle of a strategic chess match where the winner of the spoils would only be Taylor and his fellow commissioners. Haskell Institute Club, n.p.; Commissioner Taylor speech, May 24, 1868 in H.R. Ex. Doc. No. 310, 33-34; Mathews, 670.

¹⁰⁵ Che-To-Pah speech, May 23, 1868 in H.R. Ex. Doc. No. 310, 25; Mathews, 672-674; Baird, 55-56.

In the eyes of the treaty commissioners, the arrival of the young warriors returning from their pursuit of justice reflected poorly on the Osage Nation. The tension became palpable when a white settler named Dunn from Butler County, Kansas, arrived soon after the warriors stating that the Osages had attacked him, his brother, and a man named James Anderson. Dunn accused the “war party” of killing his brother and James Anderson and pointed to the scalps as evidence of the crime. The *Fort Smith Herald* reported that the Osage raiding party, consisting of a grossly exaggerated number of 346 warriors, had left camp to fight the “Arrapahoes [sic]” to avenge the death of their tribesmen but had attacked the Kansans instead. The Osages maintained the raiding party returned with the scalps of Arapahoes, but the commissioners refused to believe this. Instead, they said if tribal leaders turned over those who committed the offense and signed the treaty without further negotiations, then the Osages would be forgiven for the young warriors’ actions. At that point, Paw-Hiu-Skah and the Tribal Council agreed to sign the corrupt treaty and focused on the annuities that “are largely increased and abundant provisions made for their settlement in their new home in the Indian Territory.”¹⁰⁶

When the Osages signed the Sturges Treaty in 1868, they agreed to sell the lands consisting of the “diminished reservation,” and the United States Treasury held the proceeds in trust. Part of that sum, around \$40,000, would be applied to the collective debt of tribal members. Having gone without support from the federal government during the Civil War, tribal members relied on credit from traders to buy needed supplies, food, and additional horses to replace what had been stolen from them by squatters. While credit initially helped, it ultimately

¹⁰⁶ The Osage council did turn over two men accused of the murders “amid the crying of the squaws and the utmost excitement among the warriors and braves,” to the treaty commissioners. These men were then taken to Ottawa Kansas to U. S. Marshal Whitney to stand trial. It is unclear what happened to the men after that point. “From the Osage Indians,” *Fort Smith Herald*, June 13, 1868; Foreman, 268-269; “From the Osage Indians,” *Fort Smith Herald*, June 13, 1868; Mathews, 674-675; Vincent Colyer, “Report of the United States Special Indian Commissioner, 1869,” 71.

placed a strain on their economic situation. Therefore, during treaty negotiations, the commissioners stated that a portion of the money from Osage land sales would be applied to the “burden of their present liabilities.” The Osages understood that if they wanted to be successful in recreating their relational web in a new place and eventually extend their influence outwards, they needed to, as Agent Snow stated, “commence their new mode of life free from the embarrassment of debt.” After using the profits from the sale of their Kansas reservation for operating expenses for the new Osage agency, salaries for agency employees, and farming implements, the remaining balance would be “invested for the Osage Nation in United States registered stocks.”¹⁰⁷

Tribal leaders took the opportunity during negotiations to address many of the concerns and lingering problems they had with the federal government, especially past promises and treaty agreements that had not been fulfilled. The Osages utilized their negotiating prowess to ask for and receive \$20,000 from the federal government as back payments for not providing the total number of farming implements and annuities. They also received another \$10,000 because federal employees operated a grist and sawmill on the Kansas reservation for five years instead of the fifteen years agreed upon in the 1839 treaty. Knowing they would soon move to a new place with no improvements to the land, Paw-Hiu-Skah asked for the \$30,000 to be reinvested into tribal development. Taylor agreed to invest \$12,000 to construct the Osage Agency, a warehouse, blacksmith shop, and several other agency buildings and employees to operate the needed services. The remaining \$18,000 would be used to build a school, church, saw, and grist mill, to be operated by the Catholic Mission on behalf of the Osages. The presence of a Catholic

¹⁰⁷ While the phrase “embarrassment of debt” was probably added to the language of the treaty by the representatives of the Office of Indian Affairs, the sentiments of wanting to start their life in a new place without debt was a mutually agreeable point for Osage leaders. Haskell Institute Club, n.p.; Drum Creek Treaty, Article 3, May 27, 1868, in Fitzpatrick, 36.

Mission might seem like yet another example of Americans pushing their ideas of western “civilization” and Christianity, but the Osages requested their presence since they had cultivated a beneficial relationship with Father Schoenmaker and the Osage Mission since its establishment in the 1840s.¹⁰⁸

Joseph Pawnee-No-Pa-She and the other tribal leaders also told the treaty commission about the continual theft of their horses and requested the federal government reimburse them for the cost of their missing property. While the Osages successfully negotiated several beneficial measures, Taylor could not support one that would place responsibility for all alleged horse thefts in the area on Kansans. However, he did agree to investigate all claims of theft by the Osages if made in the following three months after the treaty’s ratification. If the theft could be proven, the agent would be responsible for forwarding the information to the Commissioner of Indian Affairs, who would handle the situation according to his best judgment. This did not closely align with Osage requests, but it provided a path towards possible reimbursement and punishment for horse thieves.¹⁰⁹

While the Sturges Treaty might have contained some beneficial passages for the Osages, the entirety of the treaty placed the Osage Nation in a much weaker position due to many individuals attempting to meddle in tribal affairs. The Osages had become accustomed to people striving to gain access to their lands for various means, but with the Sturges Treaty, Kansans and politicians rallied together to stop what they viewed as a “frightful land monopoly in defiance of the just rights of the settlers and of the people of the United States.”¹¹⁰ Other railroad companies such as the Missouri, Fort Scott, and Santa Fe Railroad and the Union Pacific, Southern Branch

¹⁰⁸ Haskell Institute Club, n.p.; Drum Creek Treaty, Article 6, May 27, 1868, in Fitzpatrick, 34.

¹⁰⁹ Drum Creek Treaty, Article 17, May 27, 1868, in Fitzpatrick, 39-40.

¹¹⁰ Sidney Clarke, et. al. Committee on Indian Affairs, May 27, 1868 Resolution, in H.R. Report No. 63, 3.

expressed outrage at the Sturges Treaty and the fact that they, despite their best efforts, had been shut out of the negotiations. The Southern Branch of the Union Pacific executives had even attempted to get one of their employees hired as the Osage Indian Agent so they could negotiate a favorable arrangement for their company. Thankfully this attempt failed, but the denial of one company's involvement did not mean the Osages escaped the interest of additional outsiders. As had been predicted by storytellers recounting the words of the black spider, the Osage Nation and their lands had become even more desirable.¹¹¹

Kansan settlers who had crowded the Osages vying for a piece of the tribe's land immediately expressed their outrage and appealed to the Office of Indian Affairs since the treaty benefitted the railroad company rather than themselves. The *Lawrence Tribune* wrote that the settlers considered the secretive treaty to be "unreasonable and unjust," however, they did not vocalize any concerns about the fate of the Osage Nation. The article continued by stating they raised their concerns "not particularly to the Indians, for we do not go much on Mr. 'Lo' but to the hard working honest settlers of Kansas."¹¹² The settlers remained exclusively concerned about the interest of their state and their access to prime farmlands rather than the fate of the Osage Nation. Many would have been relieved to see the Osages removed entirely since the local press and even government officials had spread rumors of Native atrocities throughout the Western states. This rhetoric sparked fear in some settlers, while others had the audacity to add further details to the rumors so they could secure the land.¹¹³

¹¹¹ Mathews, 677; Miner and Unrau, 122, 126.

¹¹² *Lawrence Tribune* excerpt in F. & J. Rives and George A. Bailey, *The Congressional Globe: Containing the Debates and Proceedings of the Second Session Fortieth Congress* (Washington, D.C.: Office of the Congressional Globe, 1868), 3261.

¹¹³ Mathews, 668, 654; Miner and Unrau, 122.

The Kansas Governor, S. J. Crawford, supported the settlers' protests and expressly told George Hoyt, his Attorney General, that he wanted him to defeat “the infernal swindle” and hoped he would “follow it up until it is dead and buried.”¹¹⁴ Kansan representatives argued the treaty gave one railroad enough land where two or three rail lines could be built. If the treaty proceeded in its current form, it would prohibit additional settlements, negatively affecting the state and their representation in Congress. In addition, the Kansas government argued if all eight million acres went to one company and established a monopoly, the settlers would not have access to prime farmlands. Since the Sturges Treaty included the same northern strip of land that had been ceded in the Canville Treaty, now referred to as “trust lands,” settlers could only claim title to their claims if they occupied a proper “square quarter section.” As a result of squatting on indigenous lands, very few of the “settlers” met that criteria meaning they would have to vacate their “claims” and forfeit any improvements they had made on the lands. Many Kansans argued the commission did this intentionally to defraud settlers and ensure Sturges could control as much land as possible so he could sell at a premium at a later date. Kansans feared this possibility since they saw how railroads participated in extreme price gouging in other places. Two separate railroad companies purchased the former Kickapoo and Delaware lands and offered land for sale in 1868 for prices anywhere between \$3 and \$100 per acre. The correspondence of J. M. Walker, the Leavenworth railroad president, stated he hoped to sell the Osage lands for at least \$8 per acre, with the eastern sections selling for \$10 an acre since many viewed that land as more desirable.¹¹⁵

¹¹⁴ S. J. Crawford to G. H. Hoyt, June 13, 1868 in Geo. H. Hoyt, *Kansas and the Osage Swindle: A Letter to Hon. Sidney Clarke* (Washington: Gibson Brothers Printers, 1868), 7, 12-13;

¹¹⁵ On railroads and the corrupt strategies of railroad tycoons throughout the Gilded Age, see Richard White's *Railroaded: The Transcontinentals and the Making of Modern America* (Oxford: W. W. Norton, 2012). Sidney Clarke report in H.R. Report No. 63, 2; Committee on Indian Affairs, Resolutions of the House of Representatives in Relation to the Treaty Concluded on the 27th day of May, 1868, with the Great and Little Osage Tribe of Indians, S. Mis. Doc. No. 98; Chas. W. Blair statement relative to the Osage treaty in H.R. Report No. 63, 7-8; Collins, 31.

As the Osages and Kansan citizens argued the Sturges Treaty was indeed corrupt, they both pointed to the fact that if anyone attempted to talk with the treaty commissioners to negotiate a new deal or make a suggestion, they “were referred to Mr. Sturges, who seems to have been the ruling spirit of the concern and the predetermined and favored grantee of the lands.” Even the Kansas Superintendent of Public Instruction, Peter McVickar, faced this treatment when he wanted to discuss if land had been set aside for public schools as stipulated by Kansas law. Even after treaty negotiations ended, George Hoyt, the Kansas Attorney General, stated the treaty was still “held as a secret paper after its arrival in Washington,” likely as an attempt to prevent Kansans from knowing what had happened at the council so they could not protest the treaty’s ratification. Hoyt also alleged that “four barrels of whiskey, conveyed to the Osage reservation about the time the Commission entered it,” likely had been utilized by the treaty commissioners to speed negotiations with the Osages.¹¹⁶

In an attempt to obscure their own motives, Kansans who protested the Sturges Treaty included some of the injustices the Osage Nation faced. They utilized the Osages' experiences during the negotiations and the fact they had been “improperly influenced to consent to the signing of said treaty” and “were very reluctant to execute it” as further credence for their claims of corruption. In fact, the Osage Nation had been threatened by commissioners that Kansas settlers would go to war with the tribe over access to their reservation, and their annuities would be withheld until the Sturges Treaty had been signed. Tribal leaders did not want to sell their

¹¹⁶ Hoyt, *Kansas and the Osage Swindle*, 9-10, 12; Sidney Clarke, *Remonstrance Against the Treaty with the Great and Little Osage Indians: Gross Injustice Done the Settler, the School Fund Despoiled, and Land Monopoly Created* (Washington, D.C.: Gibson Brothers Printers, 1868), 3-4; Senate, Resolutions of the Legislature of Kansas Against the Ratification of the Treaty with the Osage Indians, Mis. Doc. No. 34, January 22, 1869; Committee on Indian Affairs, Great and Little Osage Indians, H.R. Report No. 1395, 1880.

lands to a railroad company, especially for a price they found “grossly inadequate to the value of the lands,” but they felt forced to sign as a result of these threats.¹¹⁷

As the Sturges Treaty faced criticism and politicians demanded an investigation, tribal leaders found themselves in an increasingly difficult situation. As soon as Kansan settlers along the border realized the treaty's implications, a new flood of settlers rushed to secure valuable acreage for their farms before Congress ratified the treaty. When negotiations began, Agent Snow estimated around sixty-five families squatted on Osage lands. As the investigation continued in the fall of 1868, squatters took precautions and prepared their “homesteads” for the winter by building homes, outbuildings, and mills. These actions naturally caused the Osages “great alarm and excitement,” especially as an additional 500 families settled on the eastern portion of the reservation by the summer of 1869.¹¹⁸ These settlers took “possession of [Osage] corn-fields” and prevented tribal members “from cutting firewood on ‘their claims.’”¹¹⁹ Kansan settlers were encouraged by local newspapers that frequently argued settlers “should themselves occupy the lands to ensure that the spoils would finally go to the yeoman farmer.” The Osages had adjusted to difficult circumstances, but the increased pressure and threats from outsiders eliminated their ability to form meaningful external relationships and alliances. The Osages’ relational web necessitated a variety of partnerships between the tribe and outside entities, but it became clear the Osage Nation would not be able to form and maintain relationships with Kansans. Instead, tribal members felt like they could only watch as hundreds of people argued

¹¹⁷ Sidney Clarke report in H.R. Report No. 63, 2; S. J. Crawford, et. al. to the United States Senate, June 9, 1868 in H.R. Report No. 63, 3-4; Z. R. Overman affidavit, June 16, 1868 in H.R. Report No. 63, 5; Chas. W. Blair statement in H.R. Report No. 63, 8-9; Solomon Markham affidavit, June 16, 1868 in H.R. Report No. 63, 6; Geo. H. Hoyt affidavit, June 16, 1868 in H.R. Report No. 63, 13.

¹¹⁸ Some estimates place this number around 12,000 – 15,000 individual squatters. While the true number of squatters on the Osages Kansas reservation will likely never be determined with certainty, the chances of the number of squatters reaching 15,000 individuals at this time seems unlikely. Miner and Unrau, 123; Snow, “Neosho Agency, September 8, 1868,” 271-272.

¹¹⁹ Snow, “Neosho Agency, July 24, 1869,” 380-381.

amongst themselves as to what needed to be done to remove the tribe so the land could be opened for settlement.¹²⁰

The House of Representatives voted in favor of funding the Sturges Treaty, but the treaty languished in the Senate for approval. During the ratification process, the Osages existed in a state of uncertainty. Treaty commissioners promised the Osages that once tribal leaders signed the treaty, they would receive their annuity payment in October. However, due to confusion and ongoing debates concerning the treaty, the Osages did not receive their annuity payment until mid-winter when most tribal members had dispersed and gone to the plains for their winter buffalo hunt. At this point, the Osages faced poor buffalo hunts, poor crop yields due to atmospheric conditions, as well as the intentional destruction by “thieving neighbors,” and a war with the plains tribes in the West.¹²¹ When the Commissioner of Indian Affairs, Vincent Colyer, arrived at the Osage reservation in 1869, he found the tribe “in a state of almost complete destitution” since they still awaited Congress’ approval or denial of the Sturges Treaty. Faced with starvation, more and more Osages stole cattle from the herds that passed through their reservation and surrounding lands as ranchers drove their cattle to stockyards. While the theft of a beef helped sustain tribal members, it further eroded relations between the Osage Nation and white settlers, which threatened to destabilize their relational web. Colyer’s findings from his trip were published by the *Associated Press*, further demonstrating the “starving condition of the Osages” and emphasizing the Sturges Treaty’s “unfair character [and] evil effects.”¹²²

¹²⁰ Foreman, 269; Miner and Unrau, 122.

¹²¹ Foreman, 267; Snow, “Neosho Agency, July 24, 4,” 380; Snow, “Neosho Agency, September 8, 1868,” 271-272; Schoenmaker, “Catholic Mission, Neosho County, Kansas, September 6, 1867,” 327.

¹²² Colyer, “Report of the United States Special Indian Commissioner, 1869,” 71; Snow, “Neosho Agency, September 8, 1868,” 272.

The War Department provided around \$34,000 in aid for the Osage Nation during the winter of 1868 and 1869.¹²³ The annuities proved to be life-saving for the Osages, but the provisions were not of good quality. Since the goods had been purchased in New York City and then shipped to Kansas, the supplies cost significantly more than the same goods available from the traders on the Osage reservation. As a result, Agent Snow stated the Osages were “clamorous to have their annuities paid in money” so they could purchase the types and quantities of supplies most needed by their people. Tribal leaders wanted to care for their people since their rapidly changing environment left many in need.¹²⁴ Since the Osage Nation had not been able to strengthen and expand their relational web through relationships with external parties, they focused their efforts on strengthening their internal relationships by supporting one another. By supporting their people, tribal leaders demonstrated their sovereignty and independence from the “civilizing” efforts of the federal government.

Official correspondence between federal employees within the Office of Indian Affairs presents conflicting ideas concerning how the Osages felt about the Sturges Treaty and the ratification process. At times, local agents stated the Tribal Council was “very anxious” for the Senate to ratify the treaty.¹²⁵ More often, though, agents hesitantly reported the Osage Nation’s displeasure concerning the treaty terms, the lengthy time Congress had taken to consider the

¹²³ Due to the increasing number of conflicts with Native Peoples in the West just after the Civil War, Congress considered transferring the Office of Indian Affairs to the War Department. The Indian Peace Commission that Congress sent to negotiate peace treaties and the relocation of nearly a dozen plains tribes had initially dismissed the idea due to a successful start to their meetings. However, by the end of the debates, the commissioners, with the exception of Commissioner of Indian Affairs, Nathaniel Taylor, recommended the transfer of the Indian Bureau to the War Department. They argued that if Native Americans insisted on attacking American citizens and soldiers, then the War Department would be more equipped to handle hostile forces. This transfer did not occur and the Office of Indian Affairs remained within the purview of the Department of Interior. It is possible the payment of annuities came from the War Department due to the presumed approval by Congress. United States Office of Indian Affairs, “The Question of the Transfer of the Indian Bureau to the War Department” extract from *The Annual Report of the Commissioner of the Indian Affairs for the Year 1868* (Washington: Intelligencer Printing House, 1869).

¹²⁴ Colyer, “Report of the United States Special Indian Commissioner, 1869,” 71; Snow, “Neosho Agency, July 24, 1869,” 380.

¹²⁵ Snow, “Neosho Agency, September 8, 1868,” 271.

matter and the investigation into the proceedings. Additionally, Agent Snow argued that if Congress did not ratify the Sturges Treaty, the Osages wanted to make a new treaty that provided for the sale of their lands so they could move to Indian Territory to avoid the “settlers [who] now occupy them.”¹²⁶ According to government employees, tribal members remained unhappy because their lands were worth more than the treaty stipulated. More likely, the Osages knew the treaty to be a fraud from its inception, and they did not understand why government officials could not easily recognize the wrongdoings of the treaty commissioners.¹²⁷

While the agents often presented conflicting views of Osage desires, the actions of the Osage Nation clearly demonstrate their unwillingness to let the Sturges Treaty be the last word regarding their future. Tribal leaders decided to hire two attorneys from the Cherokee Nation, C. N. Vann and William P. Adair, to use “all legal means to endeavor to prevent the approval of the treaty.”¹²⁸ The Osages may not have been able to develop meaningful relationships with their white neighbors to the north, but they called on their Native neighbors to the south. They utilized their relational web to support their people and asked for help to defeat the Sturges Treaty. They tried to reach out to attorneys during the negotiation process, but the treaty commissioners denied the Tribal Council this right. At the time of the negotiations, the Osages had limited resources, but now it became clear they needed to expand their web and call on the support of individuals outside the Osage Nation. The fact that the Tribal Council turned to two Cherokee lawyers is fairly remarkable due to the tensions and distrust between the two nations. While outright conflict had subsided after the Osages moved to their Kansas reservation, tensions remained between the two tribal nations. However, the Osages recognized the significant legal

¹²⁶ Ely Parker, *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1869), 7.

¹²⁷ Enoch Hoag, “Office Superintendent Indian Affairs, Lawrence, Kansas, October 11 1869,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.; GPO, 1869), 387.

¹²⁸ “Osage Indians,” H. R. No. Report 186, March 2, 1877, 1-2.

expertise of Vann and Adair and willingly set aside their previous differences to ensure the survival of their nation.¹²⁹

Tribal leaders understood they needed to act quickly to protect their nation. When the Sturges Treaty had been negotiated, Andrew Johnson was President with Nathaniel Green Taylor as Commissioner of Indian Affairs. Both focused on securing land cession treaties from western tribal nations and spared no exception with the Osages. However, when the Sturges Treaty went before Congress, the administration had changed, and President Ulysses S. Grant had appointed Ely S. Parker as the Commissioner of Indian Affairs in 1879. Ely Parker, born Hasanoanda as a member of the Seneca Nation, became an interpreter for his people, earned his law degree and became the first Native Commissioner of Indian Affairs in 1869. As a result, Parker showed more compassion to Native Nations than expected for Office of Indian Affairs employees.¹³⁰ Understanding the implications of a Native Commissioner of Indian Affairs, the Osages acted decisively to potentially receive a more favorable outcome from the change in administration. By utilizing diplomatic strategies as well as expanding their relational web to include members of a formerly hostile tribe, the Osages recognized a time to appeal the treaty that worked to their advantage and hired skillful lawyers who fought for Osage rights.¹³¹

In 1869, Vann and Adair headed to Washington, D. C. to meet with Ely Parker. They argued the Sturges Treaty was illegal, had been “procured through fraud,” and should not be approved by the Office of Indian Affairs. From there, Vann and Adair argued before the Senate

¹²⁹ For more information about the origins of the conflict between the Osages and Cherokees see, Duval, *The Native Ground*.

¹³⁰ On Ely Parker, the first Native American to hold the position of Commissioner of Indian Affairs see C. Joseph Genetin-Pilawa’s *Crooked Paths to Allotment: The Fight Over Federal Indian Policy After the Civil War* (Raleigh: University of North Carolina Press, 2014) and Arthur Caswell Parker, *The Life of General Ely S. Parker: Last Grand Sachem of the Iroquois and General Grant’s Military Secretary* (Buffalo: Buffalo Historical Society, 1919).

¹³¹ Laurie Collier Hillstrom, “Ely Samuel Parker (1828-1895),” in *The Gale Encyclopedia of Native American Tribes*, Vol. 1 (Detroit: Gale Research, Inc., 1998), 281.

Indian Committee that the price proposed per acre was exceedingly low, the “negotiations were tainted with fraud,” and that by outright canceling the 1865 Canville Treaty caused harm and “unnecessary loss to the Osages.” Vann and Adair’s arguments proved persuasive enough to encourage the Senate Committee to investigate the matter further. After a successful presentation to the Senate, Vann and Adair met with President Ulysses S. Grant and Ely Parker to present their case and requested the President withdraw the treaty from the Senate. Grant responded by saying that because his predecessor approved the treaty, he could not just resend it “unless fraud could be proved in its negotiation.” Grant did agree that if fraud could be demonstrated, he would withdraw the Sturges Treaty from consideration.¹³²

While the House of Representatives concluded that the “system of bartering immense tracts of Indian lands to railway companies...by methods calculated to bar the advance of civilization ... is too unreasonable to merit serious thought,” Senators commissioned an official investigation in the summer of 1869.¹³³ Superintendent of the Central Superintendency, Enoch Hoag, led the investigation with the assistance of Special Clerk Jonathan Richards, the current Neosho Agent, George Snow, and the incoming Osage Agent, Isaac T. Gibson. Investigators met with the tribe on September 23, 1869, to discuss their dissatisfaction with the Sturges Treaty. The Osages expressed their concerns of fraud and stated the treaty commissioners incorrectly identified multiple tribal members as tribal leaders during the negotiations and potentially forged the signatures of additional tribal leaders who had not been present at that time. Faced with overwhelming evidence of fraud and concerns that the treaty would cause irreparable harm to the tribal nation, the Sturges Investigation recommended the treaty be annulled. As a result,

¹³² “Osage Indians,” H. R. No. Report 186, March 2, 1877, 1-2.

¹³³ Miner and Unrau, 122.

President Grant withdrew the Sturges Treaty from before Congress, releasing the Osages from the fraudulent treaty.¹³⁴

Supporters and allies of William Sturges and the Sturges Treaty reacted in outrage at the news of the President's actions. Senators and Congressman, whom Sturges had persuaded and perhaps bribed, drafted bills in an attempt to disenfranchise the Osages from their lands at meager prices, just like the Sturges Treaty proposed. The bill before the Senate proposed the federal government purchase the Osages lands for \$1,600,000, the same twenty cents per acre price as the treaty had stipulated. The House bill proposed the United States purchase the Osage reservation for one million dollars or twelve cents per acre. Attorneys Vann and Adair launched into action once again, and the Commissioner of Indian Affairs stated he had "no hesitation in admitting that the great gain to the Osages...was largely due to the services of [their attorneys]."¹³⁵ The Tribal Council knew if they did not act, they would be driven from their land and exist at the mercy of the federal government, who in the past refused to answer their calls for assistance. The Osage Nation had experience negotiating and participating in diplomatic exchanges, but they had been most successful when the other party engaged in fair negotiations and mutual respect. After their experience during the negotiations for the Sturges treaty, tribal leaders realized they needed to rely on allies who could assist them. Tribal leaders sought support from their relational web to present a formidable resistance to the Sturges Treaty as well as future threats.

The Osages succeeded in keeping their lands and prevented the Leavenworth, Lawrence, and Galveston Railroad from entering their reservation. As a result, the Osages enjoyed a

¹³⁴ Parker, *Annual Reports*, 7; Hoag, "Office Superintendent Indian Affairs, Lawrence, Kansas, October 11, 1869," 387; H. R. Report No. 186, March 2, 1877, 2.

¹³⁵ Ibid; House, 41st Cong., 2nd sess., H.R 775 ½ (January 10, 1870); Senate, 41st Cong., 2nd sess., S. 529 (February 10, 1870).

victory and remained on their lands in the short term. Had tribal leadership hesitated, it is likely the result would not have been so favorable. Later sessions of Congress did not attempt to aid the Osages as they had in 1868. This is evidenced by Congress and the Office of Indian Affairs's actions from 1870 to 1877 when the Osages tried to get \$300,000 of their money held in trust by the federal government to pay attorneys Vann and Adair for their services. The Osages made a "contract in good faith" and desired to access their trust money to fulfill their obligations. However, Edward Parmalee Smith, then Commissioner of Indian Affairs, refused to pay more than \$50,000 because he felt that "the services of the attorneys could not have been so arduous or valuable in themselves as to warrant the payment."¹³⁶ After seven years of negotiations and discussions between Vann and Adair, Congress, and the Office of Indian Affairs, the Osage Nation issued a final statement in 1877 saying that "C. N. Vann and William P. Adair, who served us when we were friendless, and saved our lands when the Commissioner of Indian Affairs and our agent wanted to give them to a railroad company. We ask you to allow us to be just and pay our honest debt." With the passing of H.R. 3079 on March 2, 1877, seven years after the Sturges Treaty was withdrawn, Congress agreed to pay the Osages' lawyers the full \$300,000 they were due.¹³⁷

Even with the success of the Sturges Treaty having been withdrawn from Congress, just like the continued debates trying to obtain funds to pay their attorneys, the Leavenworth, Lawrence, and Galveston Railroad continued to threaten the Osages until 1875. The Leavenworth, Lawrence, and Galveston Railroad declared bankruptcy in 1869 but rebounded

¹³⁶ H. R. Report No. 186, March 2, 1877, 3-4;

¹³⁷ "Debt Due Osage Indians," H. R. Report No. 1519, May 21, 1880, 1-2; H. R. 3079, March 2, 1877; Isaac T. Gibson, "Osage Agency, I. T., September 1873," in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1873), 218.

just enough to fight the decision of the investigation in the Kansas district courts.¹³⁸ In 1875, the Osage Nation finally defeated the continued threats from the Leavenworth, Lawrence, and Galveston Railroad when the Supreme Court ruled that the Sturges Treaty “might appear that the sale [of Osage lands] was voluntary, [but] it would in fact be compulsory.”¹³⁹ Even though the Osage Nation had relocated to Indian Territory at this point, this ruling reinforced the illegal actions of the treaty, which halted the railroad from entering Osage lands and further south into Indian Territory. Since the railroad did not have access through Osage lands or the Cherokee Outlet, they limited their services to southern Kansas rather than realizing their dreams of providing passage from the Great Lakes to the Gulf of Mexico. By 1878, the company folded and sold their rail lines to the Kansas City, Lawrence, and Southern Kansas Railroad. Using diplomacy and negotiation, the Osage Nation protected their people through their relational web and the valuable alliance they had negotiated with the Cherokee Nation. If tribal leaders had not been able to rely on allies to fight against the Sturges Treaty and the railroad, the Osages would not have been in a position to relocate to Indian Territory on their own terms.¹⁴⁰

Even with a strong demonstration of the Osage's abilities to navigate complex legal systems, settlers remained undeterred and continued to enter Osage lands to claim them as their own. In 1869, during his trip to the Osage reservation, Vincent Colyer stated that in addition to the battle with the Leavenworth railroad, Kansan settlers continued to harass the tribal nation. The same year, Agent Snow recommended that due to the “immense immigration pouring in on

¹³⁸ Collins, 32; Mathews, 675-77; Baird, 56; Miner and Unrau, 122; Foreman, 269.

¹³⁹ *Leavenworth, Lawrence & Galveston Railroad Company v. United States*, 92 U.S. 733 (1875).

¹⁴⁰ “Leavenworth, Lawrence and Galveston R.R. Your only direct route, via Kansas City and Leavenworth to Ottawa, Iola, Thayer, Garnett, Humboldt, Cherryvale, Colony, Chanute, Coffeyville, Independence, and all points in southern Kansas” (Chicago: Rand, McNally & Co., 1875); William Frank Zornow, *Kansas: A History of the Jayhawk State* (Norman: University of Oklahoma Press, 1957); Collins, 66; *Fort Smith Herald*, June 13, 1868.

the diminished reservation,” the Osage Nation should sell their current reservation and move to Indian Territory.¹⁴¹

The recommendations expressed by the Office of Indian Affairs employees resonated further when paired with the disparaging conditions the Osages faced daily. During the negotiations of the Sturges Treaty, white squatters and settlers along the borders of the Osage reservation demonstrated their best behavior. However, as soon as the treaty sported the signatures of the Tribal Council, “many of them returned to their old attitude of belligerence and arrogance.” In the fall of 1869, the Osages returned from their usual summer buffalo hunt to find one of their villages had been “destroyed, caches rifled, and graves robbed.” White squatters likely perpetrated this cruel act, and due to their steadily increasing numbers, they felt entitled to the land, especially since tribal members left their villages and crops unattended for extended periods. Squatters formed patrol units to watch for Osage warriors and secure their permanent residence in the area. When some Osage citizens “learned of this brazen action, they began to burn the [settlers’] wheat crops almost ready for harvest, destroy the cabins, kill the hated hogs, and steal the horses.” However, the escalating violence in the area did nothing to prevent another group of squatters from forming a town they called Montgomery. The Osages called it Hay-House-Town because squatters had limited access to wood, so they thatched their roofs with “bluestem and other grasses.”¹⁴² White squatters hoped their presence, along with their hostile acts, would encourage the Osage Nation to relocate to Indian Territory quickly.

After the Sturges Investigation published their findings and President Grant withdrew the treaty from Congress, tribal leaders offered to cede an additional portion of land from their

¹⁴¹ Vincent Colyer, “Report of the United States Special Indian Commissioner,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D. C.: GPO, 1869), 71; G. C. Snow, “Neosho Agency, July 24, 1869,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D. C.: GPO, 1869), 381.

¹⁴² Mathews, 693, 685-686, 693.

Kansas reservation. The Office of Indian Affairs decided not to take this course of action, which meant that once again, the tribe struggled to escape the violence of Kansas settlers. Agent Snow asked, “Must these Indians starve and starve and steal and steal with [their] money in the United States treasury?” At this point, the Osage Council agreed to discuss moving to Indian Territory because, as they stated, “we knew that as Indians we could not hold our lands and our customs long surrounded by white men, as we were in our former home, and we at last consented to sell our old home and come to the Indian Territory.”¹⁴³ Tribal leaders agreed to move to Indian Territory so they could “be forever surrounded by friendly Indians with whom they could maintain intimate relations and form common rights and interests, and thus obtain permanent security against unfriendly populations and interests.” Once again, tribal leaders prioritized their people’s safety while hoping that in a new location, the tribe could develop their relational web with the support of their new neighbors.¹⁴⁴

In July 1870, Congress decided that continued land cessions were neither beneficial for the tribe nor would smaller land cessions satisfy the demands of white settlers. Congress authorized another treaty commission, consisting of John Farwell, Sr., Vincent Colyer, and John D. Lang, to travel to the Osage Nation to discuss the terms of relocating to Indian Territory. Upon their arrival on August 20, 1870, John Farwell, Jr., an eleven-year-old boy who accompanied his father for the treaty negotiations, stated they met “near a big ravine...containing about four or five thousand Indians.” Treaty negotiations began under a large elm tree where the Osages, particularly Joseph Pawnee-No-Pa-She, the current governor or principal chief of the

¹⁴³ Osage Tribe, *To the Honorable Committee on Territories of the House of Representatives, concerning House Bill 1277* (Washington, D. C.: GPO, 1888), 6, 2.

¹⁴⁴ Miner and Unrau, 125.

Nation, demonstrated their position of power throughout the meetings. He impressed the commissioners with his education and ability to speak Italian, French, English, and Osage, which he had acquired by attending the Osage Mission School. As John Farwell, Jr. remembered Joseph Pawnee-No-Pa-She “sat at the head of the circle all decked out in his Indian barbaric dress, and on his head he had a cap...which was made entirely out of the heads of red-headed wood-peckers sewed together.” To young John Farwell, he looked “quite fierce,” but Joseph Pawnee-No-Pa-She knew he and the rest of the tribe needed to present and possess a position of strength through these negotiations; otherwise, they might find themselves in a similar arrangement to the Sturges Treaty.¹⁴⁵

After the Commissioners presented what the treaty proposal, called the Drum Creek Treaty, Joseph Pawnee-No-Pa-She stood and reminded the council of the Treaty of 1804, which bound the Osages in a “chain of friendship” with the United States. In fact, he presented the original treaty “elaborately engrossed on parchment, with gold chain and seal attached.” The enclosed letter from General H. Dearborn stated that the treaty and a “pure gold” chain five feet long that “will never rust...is an emblem, bright for the succession of ages,” marking the friendship between the Osages and the President of the United States.¹⁴⁶ Joseph Pawnee-No-Pa-She stated:

Since the Treaty of 1804 the Osages have been in peace with the white man. Every time the President has wanted it we have sold him our homes. Since then the land has been held by the white man and is all there. And what have I to show for it? Not one cent. The land that we have given to our Great Father is still there, but what we have received is all gone. My chiefs are all dead. They died without any money – died naked. I have never received anything from them for what they have taken from me. The white men has taken our timber and land. He might just as well have taken the money out of my hand. I think we ought to have received something for this. You see what I have got.

¹⁴⁵ John V. Farwell, “The Story of the Trip of John V. Farwell, Jr. (aged 11 years) to Kansas, in August, 1870,” Edward Everett Ayer Manuscript Collection, MS 280, Newberry Library, Chicago, 4, 6, Addendum, 2.

¹⁴⁶ Joseph Pawnee-No-Pa-She speech in Farwell, Addendum 7; General H. Dearborn, 1804 in Farwell, Addendum, 12.

Every time we raise a good horse some night it comes up missing. When we come back from our hunt, our corn is all gone, nothing remains but the stubbles. I think the Great Father should pay large money for this. The damages would amount to about \$300,000.¹⁴⁷

Commissioner Colyer sidestepped his request of \$300,000 as payment for their losses by stating that the price per acre the government had guaranteed the Osages would be more than enough since it equaled “six times as much as the railroad was to give you.”¹⁴⁸

Both Joseph Pawnee-No-Pa-She and Twelve O’Clock informed the treaty commissioners, “The Osages are not such fools as some think,” and requested to keep their lands. To do so, they needed the Kansas settlers removed from the reservation. To this request, Colyer stated that the federal government had decided they “must lose this home” and move to Indian Territory. Much to the Tribal Council’s disappointment, Colyer confirmed, “The Government could have driven off the settlers, but she did not wish to do that.” This lack of action threatened to break the gold chain of friendship with the Osage Nation and caused large-scale suffering for tribal members. Thus far, the negotiations for the Drum Creek Treaty did not seem to be favorable for the Osages.¹⁴⁹

Additionally, the treaty commissioners deferred to the Kansas State government's demands that they reserve every sixteenth and thirty-sixth sections of land for school purposes. The treaty language suggests that these sections would be removed from any monetary transactions, and the Osages would not receive payment for these lands, which would result in a loss of around \$500,000 of potential financial support.¹⁵⁰ The Tribal Council expressed a great

¹⁴⁷ Joseph Pawnee-No-Pa-She Speech in Farwell, Addendum, 7-8.

¹⁴⁸ Commissioner Colyer response in Farwell, Addendum, 10.

¹⁴⁹ Twelve O’Clock speech in Farwell, “The Story of the Trip of John V. Farwell, Jr, Addendum, 8-9; Commissioner Colyer response in Farwell, “The Story of the Trip of John V. Farwell, Jr, Addendum, 10.

¹⁵⁰ Cyrus Beede, “Osage Agency, Indian Territory, August 20, 1877,” 94; Drum Creek Treaty, July 15, 1870 in Farwell, Addendum, 5.

deal of concern about parting with any portion of their lands without additional form of compensation. Commissioner Colyer assured them that in total, these lands equaled one-eighteenth of their total land holdings, and “it is so small that it is not worth talking about.” However, Joseph Pawnee-No-Pa-She and the rest of the Tribal Council kept discussing this point as well as several others for three weeks. Ultimately, through their continued discussion, firm stance, and ability to negotiate, the ratified version of the Drum Creek Treaty states the federal government would pay the Osages for all ceded acreage.¹⁵¹

During the treaty negotiations, tribal leaders made sure their talking points and the issues they cared about were heard, negotiated, and accepted into the final draft of the treaty. Tribal leaders met and discussed with the treaty commissioners in addition to Commissioner of Indian Affairs Ely Parker, who lent a sympathetic ear to the Osages. Having learned additional strategies for more effective negotiations during the almost disastrous Sturges Treaty, tribal leaders were prepared to meet with Commissioner Parker, and negotiations proved much more successful than they had in 1868. After reviewing the initial treaty, the Osages asked for additional land to be provided in Indian Territory to establish a school. They also requested to hold their lands in common, which created the foundation for holding their mineral rights in common after allotment in 1906. Tribal leaders also asked that their new reservation be ratified through a formal treaty process, which meant they would have the protection of the federal government to prevent squatters from entering their new lands and the rights to continue hunting buffalo on the plains. Due to the Osage Nation’s experiences during the Sturges Treaty,

¹⁵¹ Commissioner Colyer response, in Farwell, Addendum, 10; Vincent Colyer to Hon. J. D. Cox, telegram, n.d., in Farwell, Addendum, 11.

combined with their extensive history of diplomacy and negotiations, they worked with the commissioners to form a treaty that dramatically benefitted the Nation.¹⁵²

During the treaty negotiations, Joseph Pawnee-No-Pa-she and other tribal leaders focused their attention on emphasizing their autonomous and sovereign rights. First, tribal leaders asked for the ability to control at least a portion of the funds earned from the sale of their Kansas lands. They did not want all their money to be held in trust by the federal government and not have the ability to access money the tribe might need. They knew what it was like to ask for assistance from the government only to have their requests denied, and they desired to create their own systems to protect their people in times of need rather than rely on government officials. The federal government did not grant full access to their trust money for the tribe's discretionary spending, but they did provide the Osage Nation with a healthy yearly budget that accounted for tribal leader's salaries and money for supplies and disbursement of the interest accrued from their trust money directly to tribal members. Secondly, the tribe wanted indefinite permission to send delegations to Washington D. C. to speak directly to the Secretary of Interior, Congress, and the President of the United States regarding matters of tribal importance. In the past, most notably before the Sturges Treaty Commission arrived on the Osage Reservation, tribal leaders requested permission to send a delegation to Washington to directly address their concerns to the President of the United States. These requests had to be approved by the local Indian Agent, the Superintendent of the region, and the Commissioner of Indian Affairs, which meant pressing matters could not be addressed quickly even if they were ultimately approved. Rather, Joseph Pawnee-No-Pa-She wanted a direct line of communication to the Secretary of Interior and the President of the United States. These two provisions allowed the Osage Nation to govern their

¹⁵² Baird, 57; Mathews, 691-92.

people as a sovereign nation rather than a subjugated people. Ultimately, access to their funds and the direct line of communication to the highest level of government allowed the Osages to develop their most vital partners in their external relational web to that point.¹⁵³

The Drum Creek Treaty remains a testament to the effective negotiators the Osages had become. They now had more experience interacting with the Office of Indian Affairs and the federal government, and they understood how easily negotiations could fail if they simply trusted that proper procedures would be followed or justice would be pursued in all cases. After the Sturges Treaty, tribal leaders entered all negotiations with the federal government by dictating their specific concerns and desires and remaining firm in their stance. The resulting Drum Creek Treaty placed the Osage Nation in a much better position once they settled in Indian Territory. One example of this strategy can be seen when Osage leaders stated they wanted to select the location of their new reservation. The Office of Indian Affairs had selected their Kansas reservation, and while they had access to the plains for hunting, it placed them in the middle of an expanding population that desired the very same lands for farming. As Louis Burns stated, when the Osages selected their new reservation in Indian Territory, “they took the rockiest part they could find...They wanted plow proof ground, land that you couldn’t plow. Farmers had been moving in on them. They had learned!” The Osages understood they needed to locate lands they could call their own that were not necessarily the most “desirable” lands, but more importantly, they needed to obtain the deed to the land, so they did not have to rely solely on their treaty for protection from future land discussions.¹⁵⁴

The Drum Creek Treaty stated that the Osages' new reservation should be selected from lands within the Cherokee Outlet, a strip of land that ran westward along the Indian Territory and

¹⁵³ Baird, 57; Mathews, 691-693.

¹⁵⁴ Louis Burns in Ball and Xavier, *Osage Tribal Murders*.

the southern Kansas border. The Cherokees officially held the Cherokee Outlet, which provided them unrestricted access to the plains for buffalo hunts. The federal government allowed tribal leaders to select a portion of their original homelands, but they also wanted to use the Osage Nation to impede Cherokees from accessing the plains. Tribal leaders sent a scouting party to select lands west of the 96th parallel – many of whom considered the process of selecting lands that had been ceded in the 1825 and 1839 land cession treaties, only to then purchase a part of it from their enemies, the Cherokees, a strange homecoming.¹⁵⁵

While tribal members prepared themselves to move to Indian Territory, tribal leaders attempted to secure their new reservation for the best possible deal. The Osage Council offered the Cherokee Nation twenty-five cents per acre because the land was rocky and not arable. This offer offended the Cherokees, who then insisted that if the Osages wanted the lands in question, they should pay \$2.25 an acre. Of course, the Osages refused to consider such a high price, especially since their valuable land in Kansas would only sell for \$1.25 per acre. In this case, the Osages and Cherokees could not come to a mutually agreed-upon price. The Office of Indian Affairs, wanting to move the Osages quickly, presented the debate to the Secretary of Interior and, upon President Grant's approval, set the price at 70¢ per acre. This price point displeased both the Osages, since they felt they paid too much for "worthless lands," and the Cherokees, who believed they had been forced to part with their lands for next to nothing. Even at seventy cents per acre, the Osages paid a hefty sum of \$1,099,137.41 for 1,570,196.3 acres of land. Congress confirmed the transaction on July 5, 1872, and the Cherokee Nation accepted the Osages payment on June 14, 1873.¹⁵⁶

¹⁵⁵ Lamsam and Johansen, 274, 271; Smith, *Big Bluestem*, 138.

¹⁵⁶ Burrill, "Grassland Empires," 69-70; Callahan, 9; Osage Tribal Council, *Osage Indians Semi-Centennial Celebration*, n.p.

Who held the title to their new reservation in Indian Territory remained a point of concern for the Osage Nation during the negotiations of the Drum Creek Treaty. Previously, the Osages lived on a reservation held in trust by the federal government; however, this arrangement did not always benefit the Osages. They constantly felt the pressure of settlers entering their reservation, and legally the Osage Nation and Tribal Council could not prohibit the intruders or enforce their boundaries. Rather, they had to continually appeal to the Office of Indian Affairs for additional support through legislative action. Even though the Osage Nation had a constitution, since they did not hold the title to their Kansas lands, their laws proved unenforceable for those non-tribal members. To prevent the Osage Nation from being unable to protect their homes or their people, the Osages stipulated that their reservation in Indian Territory would be theirs through “title in fee simple by purchase.” No longer would the Osage Nation rely on the Office of Indian Affairs, Congress, and the President. Instead, tribal leaders protected their people by providing the most vital part of their internal relational web – the deed to their own lands. No longer would the Osage Nation have to rely on external relationships alone to protect them and their lands from intruders. Firmly holding the deed to their lands allowed tribal members to rely on one another to enforce their boundaries and safeguard their lands from intruders.¹⁵⁷

The federal government radically departed from standard practices by allowing the Osage Nation to hold the deed to their new reservation lands. The reason for this is multi-faceted and is partially due to their negotiation strategies, tribal leaders insistence they purchase the next reservation using the profits from their Kansas land sales, and their ongoing legal case in the

¹⁵⁷ Osage Tribal Council, *Osage Indian Tribe Centennial Celebration, 1872-1972* (Pawhuska, OK; Osage Agency Campus, 1972), n.p.; Newman, 144; Boutwell, 33; Drum Creek Treaty, Article 14, May 27, 1868, in Fitzpatrick, 39; Drum Creek Treaty, Article 3, May 27, 1868, in Fitzpatrick, 32; Osage Tribal Council, *Osage Indian Tribe Centennial Celebration*, n.p.

Supreme Court challenging Office of Indian Affairs employees and the Leavenworth, Lawrence and Galveston Railway. Additionally, tribal leaders had been faithful allies of the United States from the colonial period. They had never declared war on the United States and frequently fought in defense of the nation as they had during the Civil War despite having multiple opportunities to join the Confederacy or their plains allies. It is entirely possible that government officials recognized the strength of the Osage Nation and obliged their request as a good-faith gesture to ensure the Nation remained peaceful and aligned with the federal government during a period of immense conflict with dozens of other tribal nations.

The Osages received a guarantee they would have the title to their new reservation, but they did not physically hold that title until 1883. The annual reports from the local Osage Agent mention the missing title multiple times and expressed tribal leader's desire to receive the document as soon as possible. Even so, the first deed sent to the Osage Tribal Council stated their land had been given to the Osages from the Cherokee and that Congress approved the United States to be the official owner of the land.¹⁵⁸ When the Osages saw the wording, they "asked that the paper be returned, and a request made for a deed such as had been promised them when the land was purchased."¹⁵⁹ Because of the Osages' insistence on having a clear title to protect their sovereignty, the Office of Indian Affairs eventually complied and sent a clear title to the Nation in 1883. The final deed stated the federal government used the Osages' money from the sale of their lands and purchased their current reservation from the Cherokees, with the only provision being that the Osages permit the Kaw Nation to settle on a 100,000-acre portion of their reservation. Without the Osages' experience of negotiating and establishing diplomatic

¹⁵⁸ L. J. Miles, "Osage Agency, Indian Territory, September 12, 1882," in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1882), 72.

¹⁵⁹ L. J. Miles, "Osage Agency, August 20, 1885," in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1885), 89.

relationships between colonial and government entities, it is likely they would never have gained written documentation that they indeed held the indisputable title to their reservation in Indian Territory. This success not only protected them from the incursions of settlers and squatters but also allowed the Osage Nation to develop a thriving economy on a portion of their original homelands by expanding their relational web to engage in multiple successful financial ventures.¹⁶⁰

While most Osages prepared to move to Indian Territory, some tribal members had invested time and money in farming and improving their lands on the Kansas Reservation. As a result, their lands had been appraised at twelve to fifteen dollars per acre. The Tribal Council recognized that parting with their lands at “\$1.25 per acre, the price the bill allowed, seemed unjust, and they were dissatisfied accordingly.”¹⁶¹ To provide for these individuals in the same way as the rest of the tribe, tribal leaders negotiated for those who chose to remain in Kansas to do so on a claim of no more than 160 acres. During the negotiations, treaty commissioners agreed to this concession, but only for those with mixed blood heritage; otherwise, the entire tribe could theoretically have decided to stay in Kansas and render the treaty ineffective. If a mixed-blood Osage wished to move along with the rest of the tribe, Commissioners Farwell and Lang met with the Kansas citizens living in Parkersburg and Independence and made arrangements so they would “be paid a fair price for their land and improvements.” Farwell and Lang also held a public meeting to select a “committee of prominent citizens...to protect the half-breed in their rights.”¹⁶² Ultimately, twenty-five mixed-race Osage families decided to stay

¹⁶⁰ L. J. Miles, “Osage Agency, Ind. T., August 11, 1883,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1883), 73; Cracraft, 9; “Deed from the Cherokee Nation,” June 14, 1883 in Fitzpatrick, 46; Osage Tribal Council, *Osage Indian Tribe Centennial Celebration*, n.p.

¹⁶¹ Farwell addendum, 5.

¹⁶² Chap. 120, March 3, 1871, 16 Stat. 335, in Fitzpatrick, 14; Farwell addendum, 5.

in Kansas when the rest of the tribe moved in the spring of 1871. Those who remained in Kansas planted their crops, but within a brief period, settlers' cattle and other free-range livestock destroyed their food sources.¹⁶³

Joseph Mosier, a mixed-blood Osage son of a French trader, his wife, Basille Ahsinkuh, and their young family, decided to stake a claim in Kansas. Mosier had received a good education at the Jesuit Mission, served in the Union with the Ninth Kansas Cavalry, and came from a well-respected family, leading him to believe he could easily stay in Kansas without much harassment from settlers. Mosier built a house in the fall of 1870 prior to the tribe moving to Indian Territory and felt reasonably safe on his own homestead. However, on the night of January 7, 1871, settlers attacked the Mosier home. They pulled Joseph from his bed and brought him outside in twelve inches of snow with his wife and eighteen-month-old baby quickly following. The Mosier's watched their home burn to the ground and commenced walking to the nearest Osage home. By the time they reached safety, the Mosiers had walked barefoot in their "night clothes" for five miles. Joseph died soon after from pneumonia, and Basille died around six years later due to internal injuries she sustained that fateful night. The harassment of the Mosiers exemplifies the types of attacks and assaults Osage mixed-bloods who remained in Kansas continued to face without the support of their community of tribal members.¹⁶⁴

The remaining twenty-four families faced severe harassment from settlers, especially after the tribe moved to Indian Territory. One unarmed group of Osage men "were forced by a party of seventeen whites to dismount and run for their lives while trigger-happy frontiersmen

¹⁶³ Enoch Hoag, "Central Superintendency, Lawrence, Kansas, October 5, 1871," in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1871), 485.

¹⁶⁴ Joseph B. Thoburn, *A Standard History of Oklahoma*, Vol. 5 (Chicago: American Historical Society, 1916), 2018; Miner and Unrau, 138.

used them for rifle targets.”¹⁶⁵ Eventually, the settlers’ harassment and the prolonged separation from their tribal community encouraged the families who initially chose to stay in Kansas to migrate south and rejoin their people. These families tended to settle in the Grayhorse Indian camp, and it is said those from this community are to this day known for their “fierce independence and skepticism, especially concerning issues of Osage governance.” These mixed-blood families experienced similar attacks and harassment much like tribal members in the decades before; however, they found the situation unbearable once they voluntarily separated themselves from their community. By willingly severing their connection to the Osage’s internal relational web, these families did not have the support structure they needed to create and maintain a safe environment for their families. When they rejoined the entire tribal community, the relational web supported one another and allowed the whole tribe to collectively engage in cultural events and start to expand their relational web to include ideas, people, and economic ventures that further strengthened the Nation.¹⁶⁶

While the Osages discussed the treaty and finalized amendments that would aid the tribe, yet another railroad came to treaty negotiators to see if they might benefit themselves and their financial supporters. When the Atchison, Topeka, and Santa Fe Railroad learned the Osage Nation had started negotiating a new treaty, they offered to buy the Osage reservation for \$2,560,000, purchase the new reservation in Indian Territory on behalf of the Osages, and provide \$50,000 for the “subsistence of the tribe for a year,” to establish them in a new area. However, Agent Isaac Gibson quickly dismissed this attempt with the support of Maine Senator Lot M. Morrill. Together, they argued that because the Treaty of Canville stated the federal government would pay the Osages \$1.25 per acre, they refused the Atchison, Topeka, and Santa

¹⁶⁵ Miner and Unrau, 138.

¹⁶⁶ Dennison, 102.

Fe Railroad proposal because they only offered \$0.80 per acre. Congress agreed to abide by the precedent they set in 1865 and sold the Osages' land for \$1.25 per acre.¹⁶⁷ Tribal leaders understood this support came directly from the relational web they had fostered with their new Indian Agent, Isaac Gibson. Without his support and garnering the support of Senator Morrill, the Osage Nation likely would have encountered much more difficulty in refuting the Atchison, Topeka, and Santa Fe Railroad offer. Due to the alliances tribal leaders crafted with external parties, the Osage Nation evaded this threat to their sovereignty and moved to Indian Territory in an economically stable position.

After three weeks of intense negotiations which forced both the treaty commissioners and the Tribal Council to review the language of the Treaty of Canville, the failed Sturges Treaty, and the proposed Drum Creek Treaty, Joseph Pawnee-No-Pa-She, and the remaining council members signed the Drum Creek treaty on July 15, 1870. The Osage Nation subsequently relinquished their lands in Kansas in 1872 after arrangements for their new reservation had been finalized. The United States agreed to provide the tribe with a \$50,000 loan at five percent interest to cover the initial moving expenses until their lands in Kansas sold. In order to pay back this loan and purchase their new reservation, their Kansas reservation lands would be sold in 160-acre parcels for \$1.25 per acre. The Drum Creek Treaty stipulated that if Kansas settlers wanted to live on the former Osage reservation, they had to be citizens, file a "declaratory statement," and prove and pay for the land before January 1, 1873. The proceeds from the sale of the Kansas lands were deposited in a trust fund for the Osage Nation held by the United States Treasury. Settlers jumped at the chance to purchase the Osage lands they had desired or squatted

¹⁶⁷ Mathews, 671, 687-689; Miner and Unrau, 138.

on for several years, which left the Osages with nearly \$10,000,000 in the Treasury fund after all their former lands sold.¹⁶⁸

Osage tribal leaders effectively negotiated for the best possible treaty they could obtain during the Drum Creek Treaty negotiations. Not only had they learned how to avoid dangerous and hostile treaty negotiations like the Sturges Treaty, but tribal leaders also understood what their people needed and how they could strengthen their relational web while asserting their sovereignty. The fact that the Osage Nation negotiated a beneficial treaty for their people becomes even more significant and demonstrates the Osages greatly improved diplomatic abilities with the American government when one remembers that the tribe did not have their own Indian Agent guiding them to reach a predetermined destination. The Osages did have an Indian Agent through the Neosho Agency, but because the Osages' lived in a remote area, they did not see their Agent regularly. Multiple Indian Agents believed this arrangement did not aid the Osages, and that tribal members suffered because they did not have the full support of the Office of Indian Affairs on their side; however, after successfully negotiating the Drum Creek Treaty, this was no longer a concern for the Osage Nation.¹⁶⁹

While the Osages did not receive enough support from the federal government in the form of goods, services, or protection, the separation of the tribe from the influence of Indian Agents enabled tribal leaders to develop their own strategies to preserve the strength of their people. Tribal leaders recalled the legacies of their ancestors and relied on the negotiation and

¹⁶⁸ For additional information about the delayed sale of their Kansas lands and the hardships this caused for the Osages once in Indian Territory, please refer to Chapter 3: Leasing Economy. Chap. 120, March 3, 1871, 16 Stat. 335, in Barney, 15; Callahan, 14; 16 Stat. L. 335, Chap. 296, July 15, 1870 in Barney, 12; 19 Stat. L. 127, Chap. 259, August 11, 1876 in Barney, 19-20; 16 Stat. 90, Chap. 149, May 9, 1872 in Barney, 14; 18 Stat. L. 283, Chap. 488, June 23, 1874 in Barney, 19;

¹⁶⁹ Elder, "Office Neosho Indian Agency, Fort Scott, Kansas, 1861," 652; Elder, "Office Neosho Indian Agency, Ohio City, September 15, 1864," 317; Sells, "Southern Superintendency, Lawrence, Kansas, October 16, 1865," 257; Snow, "Report from the Neosho Agency, Baldwin City, Kansas, September 5, 1867," 324.

diplomatic strategies the Nation had used in past interactions with colonial governments as well as with Americans. Had the federal government mandated the Osages have their own local agency during the treaty negotiations between 1865 and 1870, it is possible that tribal leaders might not have been able to fully express themselves, their desires, and their visions for the future of their people. Ultimately, the ability to freely negotiate for things of great importance to the tribe without external interference allowed the Osages to move to Indian Territory on their own terms and to set themselves and future generations for great successes.

However, before the Osages could realize their wealthy futures, the Tribal Nation faced the unenviable task of packing their belongings, saying goodbye to their deceased relatives buried on their Kansas reservation, and moving to a new area many had never even seen. Their reservation in Indian Territory may have been part of their original homelands, but this generation of tribal members entered an unfamiliar environment to start a new life for themselves. For this generation, their Kansas lands had become home. They struggled to make sense of why they had to sell their home to the wealthy Kansans when they had suffered in the face of relentless settlers.¹⁷⁰ Many remember that after the Drum Creek Treaty was signed, “the women sobbed their mourning songs every morning for days,” and tribal members “lamented over the graves of their children which they were about to leave forever.” In the midst of their grief, the Osages resorted to preparing for their journey.¹⁷¹

Some historians view the Osages' relocation to Indian Territory as the beginning of the end for the autonomous tribal nation. Historians Din and Nasatir stated that the Osages “days of former glory belonged to a nearly forgotten world,” as if the Osage Nation simply ceased to exist

¹⁷⁰ Beede, “Osage Agency, Indian Territory, August 20, 1877,” 94.

¹⁷¹ Mathews, 692; Smith, *Wahzhazhe*.

after the Drum Creek Treaty.¹⁷² Others state the Osages' move to Indian Territory meant they faced "years of hardship and privation before their lush oil lands in Oklahoma made them the richest people in the world."¹⁷³ Neither of these statements presents the full truth. First, the Osage Nation did not cease to exist, and in fact, the tribe only grew stronger and learned how to navigate the challenges of the American legal system with increasing adeptness. Once the Osages arrived on their new reservation, they faced a period of hardship, disease, poverty, and hunger. However, after this initial, yet severe, period of adjusting to a new environment, the Osages utilized the money they received from the sale of their Kansas lands to establish new relationships that expanded their relational web and served to increase their sovereignty and power throughout the twentieth century.

¹⁷² Din and Nasatir, 384.

¹⁷³ Foreman, 277.

Chapter 2

New Beginnings in Indian Territory?

Defeating the Sturges Treaty and negotiating the Drum Creek Treaty placed the Osages in a relatively strong position as they moved from their Kansas reservation to Indian Territory. Even though Osage leaders effectively negotiated a much more favorable treaty that secured them a large sum of money and the ability to choose their new home within Indian Territory, the tribe's hopes that things would be different once they moved would not be realized for at least another decade. Instead of being left alone, the tribe faced continued pressure from Office of Indian Affairs agents' attempts at "civilizing" tribal members, increasingly hostile conditions among multiple plains tribes, assaults by settlers and squatters in the area, and environmental factors, such as drought, grasshoppers, and diminishing buffalo herds. All of these threatened the Osages' way of life. As the tribe faced both new and familiar challenges throughout the 1870s, they maintained their relational web through strong bonds among tribal members, new alliances with traders in the area, negotiated peace with once hostile tribes, such as the Pawnee, and avoided war with others through active negotiations. In the face of these challenges, tribal leaders asserted their sovereignty by drafting a new and more extensive constitution to guide their people.

Agent Isaac T. Gibson, who oversaw the Osages' permanent removal from their Kansas reservation and remained their agent for nearly a decade, empathized with the Nation and all they had endured to that point. He believed the adversity the Osages had faced in Kansas placed the tribe placed "between the upper and lower millstone." He admitted "the process of grinding them to powder" could be viewed as a beneficial step towards "civilization" by many Americans, but he believed the immense pressure the Osages had faced reduced them to a "little

remnant...of a heroic race that once held undisputed ownership over all this region.” While Gibson rightly echoed the pain and loss tribal members felt as they packed their belongings and left the only home they knew, his statements cannot be the definitive view of the Osage Nation. Tribal leaders led their people south to Indian Territory, not knowing what their fate might be, and the 1870s proved to be a challenging period for the Osages and their internal and external relationships. However, tribal members relied on one another for support as they rebuilt their community and took clear and decisive steps forward. Their deliberate actions, particularly in forming a new constitution in 1881, allowed the Osages to rebuild their home and expand their relational web outwards to embrace new economic opportunities to support their lives in Indian Territory.¹⁷⁴

When the Osages met at Drum Creek and stated they would choose their own reservation lands, they selected a few individuals to locate their new home in Indian Territory. Wah-Ti-An-Kah, a tribal elder and leader of the Wah-Ti-An-Kah Band, went to Indian Territory and stated the lands they selected would be good for the tribe because “the Heavy Eyebrows [Americans] would never come here because ‘he couldn’t put the iron thing [plow] in the ground here.’” In fact, the land the elders selected was so unimpressive every Office of the Indian Affairs employee remarked as to how the land was “poorly adapted for civilizing purposes” and that it seemed “untillable” due to sandstone rocks scattered about.¹⁷⁵ The lands along the Arkansas River had less rocky and more fertile soil but frequently flooded, leaving sand, sediment, and debris behind. The timber consisted of walnut and post oak trees, both difficult materials to work with due to their density, and were considered too “scraggy” and “knotty” and unfit for

¹⁷⁴ Gibson, “Neosho Agency, Kansas, Montgomery Post-Office, October 1, 1871,” 487-488.

¹⁷⁵ Mathews, 706.

construction. After Agent Gibson's initial survey of the reservation, he stated the tribe had "little immediate use" for the lands.¹⁷⁶

Due to the limited arable land, federal employees decided to settle along the 96th meridian, the eastern boundary of the new reservation, since these lands seemed to be the most valuable and fertile. The Osages soon learned there seemed to be confusion concerning the precise location of the 96th meridian since they found around 150 families from the Delaware, Shawnee, and Cherokee tribes already settled in the area. Before Osages could settle within the bounds of their reservation, federal employees moved the Delaware families and resettled them among the Peorias. Having cleared the land of many of the previous inhabitants, the Osages started making "substantial and valuable improvements" to their new lands. Agent Gibson arrived on October 1, 1870, and commenced construction on agency buildings near Silver Lake. Gibson, encouraged by the progress he saw among tribal members, eagerly started helping the 2,962 tribal members erect their own homes and plow fields for farming.¹⁷⁷

As Agent Gibson and tribal members worked to establish their new home, a group of Cherokee tribal members approached and informed them the land the Osages had moved to belonged to them. The Cherokee Tribe conceded the Osages had purchased their reservation west of the 96th meridian, but they argued the Silver Lake area was still theirs since it sat just east of the boundary between the two reservations.¹⁷⁸ The Cherokee Tribal Council accused the Osages of settling on their property and being "in notorious variance with official maps

¹⁷⁶ Gibson, "Osage Agency, Indian Territory, September 1, 1872," 247.

¹⁷⁷ Silver Lake is a small lake located 4.2 miles southeast of downtown Bartlesville, Oklahoma, just east of the Caney River. Burrill, "Grassland Empires," 68; Chap. 310, June 5, 1872, 17 Stat. 228 in Barney, 17; Gibson, "Neosho Agency, Kansas, Montgomery Post-Office, October 1, 1871," 483; 485; Mathews, 697; Hoag, "Central Superintendency, Lawrence, Kansas, October 5, 1871," 464.

¹⁷⁸ Enoch Hoag, "Central Superintendency, Lawrence, Kansas, October 8, 1870," in the *Annual Reports of the Commissioner of Indian Affairs* (Washington: GPO, 1870), 259.

furnished...by the Indian Department, and every map known to exist.”¹⁷⁹ Gibson reported the events to the Commissioner of Indian Affairs, Francis Walker, who expressed concern and skepticism. Walker believed that the Cherokee Nation might be incorrect, and if they took away what government officials deemed the most valuable land from the Osages, tribal members “will be quite unwilling to accept the hilly and comparatively sterile country which will be left to them.” Walker revealed his limited knowledge of tribal leaders’ desires for their people in Indian Territory with this statement. Tribal elders wanted and needed to live in an area undesirable to the average farmer so they could live in peace and not be immediately driven from their lands as had happened previously.¹⁸⁰

Commissioner Walker directed the Department of Interior to investigate the Cherokees' claims and re-survey the area in question. Surveyors arrived in July of 1871 and soon discovered the Osages had settled three and a half miles east of the 96th meridian. The survey Agent Gibson and other treaty commissioners used at the Drum Creek Treaty negotiations inaccurately represented the reservation boundaries, but investigators did not find any evidence that the inaccurate survey had been used to purposely defraud the Cherokees. Enoch Hoag from the Central Superintendency met with the Osage families who had settled on Cherokee lands with the survey results. He informed them if they wanted to stay on the land, the federal government could arrange it so they could remain. However, the Cherokee Nation remained unwilling to negotiate and sell more of their lands.¹⁸¹

Even if the Cherokee Nation had been willing to sell additional lands to the Osages, tribal leaders agreed to relocate as a means to maintain a positive relationship with the Cherokee

¹⁷⁹ Burrill, “Grassland Empires,” 68.

¹⁸⁰ Hoag, “Central Superintendency, Lawrence, Kansas, October 5, 1871,” 464-465.

¹⁸¹ Ibid.; Isaac T. Gibson, “Osage Agency, Indian Territory, September 1, 1872,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington: GPO, 1872), 245.

Nation who had become an integral part of their relational web. Agent Gibson reported the Osages wanted to foster “friendship with their civilized brothers...[so] they nobly relinquished their choice of land and improvements and submitted to another removal.”¹⁸² Osage leaders understood that even if they settled on Cherokee lands through entirely accidental circumstances, they could not remain and successfully incorporate their most powerful neighbors within their relational web. By remaining committed to the outlines of the Drum Creek Treaty and stating they would not stay on the land in question even if the Cherokees offered it as a gift, the Osages move to their proper reservation demonstrated their commitment to a positive relationship going forward with the Cherokee Nation.¹⁸³

Those who had settled, built houses, and planted crops on Cherokee land around the Silver Lake area found the second move devastating and demoralizing. At this point, Agent Gibson asked for and received military support to aid the Osages in their move, but more specifically to remove white settlers who had slowly moved across the Kansas and Indian Territory border to homestead on the Osages’ new reservation. While disappointed that Kansan settlers had already attempted to take parcels of their new lands away from the tribe, having the support of the military meant the settlers moved quickly and with little incident. White settlers realized these reservation borders would not be as permeable as they found the Kansas reservation to be. Tribal members knew that since they had to move a second time, they needed to find land and establish their homes as quickly as possible, so they did not waste more time and effort. Many tribal members took advantage of the newly vacated homesteads built by Kansan

¹⁸² Gibson, “Osage Agency, Indian Territory, September 1, 1872,” 245-246.

¹⁸³ Burrill, “Grassland Empires,” 68.

settlers and moved into their homes, easing their transition while also making a powerful statement of precisely who the land belonged to and trespassers would not be tolerated.¹⁸⁴

Those who moved into former squatters homesteads found the second move slightly more tolerable, but for most tribal members, the confusion concerning their reservation boundaries and the delay caused by re-surveying the area “fearfully sapp[ed] the confidence which they had in the integrity of our Government.”¹⁸⁵ In fact, many believed the new reservation would not be permanent. Those who remained skeptical about their permanency in Indian Territory flatly refused to put much effort into improvements on the land unless and until the federal government issued them a deed to their lands. Some families hastily planted crops, but due to the limited number of individuals who did so, food shortages occurred, jeopardizing the tribe’s success as well as their ability to go on the next buffalo hunt since many were in “almost a suffering condition for food.” In short, the Osages left the reservation on their fall buffalo hunt in 1872, “much displeased and discouraged, alleging that another gross outrage had been perpetrated upon them by the Government.” They had very little confidence that their new home would be securely in their hands when they returned.¹⁸⁶

Agent Gibson quickly started arranging for a new agency to be located in a centralized location on the proper Osage reservation. This time, Gibson chose a high ridge for the new agency building. Below the hill, Bird Creek provided access to fresh water, timber grew in the surrounding valleys, and the herds of agency cattle and the Osages prized horses grazed on prairie grasses to the north and west of the town. The area boasted a central location for tribal members, but an exhausted Gibson likely finalized his decision when he found an empty log

¹⁸⁴ Osage Tribe, *Concerning House Bill 1277*, 3; Chap 310, June 5, 1872, 17 Stat. 228 in Barney, 17; Gibson, “Osage Agency, Indian Territory, September 1, 1872,” 246.

¹⁸⁵ Hoag, “Central Superintendency, Lawrence, Kansas, October 5, 1871,” 465.

¹⁸⁶ Gibson, “Osage Agency, Indian Territory, September 1, 1872,” 245-246.

cabin near Bird Creek that served as the agency headquarters until permanent buildings could be constructed. Frequently referred to as simply “The Agency,” the area soon came to be known as Pawhuska, named for the first Chief Paw-Hiu-Skah who fought against the army of the young United States during the battle of St. Clair’s Defeat.¹⁸⁷ Perhaps in an attempt to demonstrate to tribal leaders that their reservation would indeed remain their permanent home, Gibson ordered agency buildings be constructed out of large sandstone blocks. The large-scale construction project was completed in 1874.¹⁸⁸

Due to the inaccurate survey, the second move to their proper reservation, and the tribe’s hesitancy to recognize their new lands as a permanent home, Office of Indian Affairs employees and the Commissioner of Indian Affairs understood their mistake could potentially sour one of the United States’s closest Native alliances. In an attempt to reduce any further complications from this error and alleviate “an embarrassing situation,” the Office of Indian Affairs offered the Osages additional acreage.¹⁸⁹ According to the Drum Creek Treaty, the Osage reservation’s original boundaries were drawn so that each tribal member received the equivalent of 160 acres of land. With the population of tribal members right around 3,000 individuals, the Osage Nation’s reservation consisted of around half a million acres. However, with the additional lands offered to the tribal nation, their reservation increased to include 1,700,000 acres, with the caveat

¹⁸⁷ Chief Pawhuska was also known as “White Hair.” He earned this name during the St. Clair’s Defeat when he wounded an officer and as he went to scalp him, the man’s powdered wig easily came off. Pawhuska believed the wig had “supernatural powers” and so he “wore it fastened to his roach.” Workers of the Writers’ Program, 290; Newman, 143-144; H. C. Ripley, “Report of Indian Trade Supervisor, Osage Agency, Pawhuska, Oklahoma, August 15, 1903,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington: GPO, 1903), 273; Burns, *A History of the Osage People*, 56-59.

¹⁸⁸ Wahshowahgaley, *Pioneer Days with the Osage Indians, West of '96* (Bartlesville, OK: T. M. Finney, 1925), 9. Thomas Frank Finney, who worked at the Dunlap and Florer Trading Post on the Osage reservation lived among the Osage for the majority of his adulthood and became a prominent figure on the reservation. He was eventually adopted into the Osage Nation and given the name Washowahgaley. Isaac T. Gibson, “Osage Agency, I.T., Formerly Neosho, September 1, 1874,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington: GPO, 1874), 224.

¹⁸⁹ Foreman, 270.

that 100,000 of that acreage would be set aside for the Kaw Nation, who would purchase 160 acres per tribal member when they moved to Indian Territory in the near future; council members readily agreed to this favorable proposal. Congress agreed to these terms since they believed the Osage reservation consisted of non-productive lands, and as a result, tribal members would need additional lands to ensure their crops could yield enough food to sustain the tribe without support from federal rations. Congress passed these new provisions into law on June 5, 1872, and the additional acreage was added to the western side of the reservation.¹⁹⁰

In addition to gaining almost quadruple the acreage of land they received under the Drum Creek Treaty, Agent Gibson negotiated with the Cherokees and the Office of Indian Affairs to reimburse tribal members for any improvements they made, including structures built and crops planted, on the mistakenly identified lands around Silver Lake. Agent Gibson's actions aided the Osages when they struggled monetarily; however, the Cherokee Nation expressed their displeasure with the arrangement. The Cherokee Nation disagreed that they should be held responsible for paying the Osages anything when they tried to claim Cherokee lands. Regardless of the Cherokee protests, the Office of Indian Affairs reimbursed the Osages utilizing Cherokee

¹⁹⁰ The Kaw Nation and the Osages are closely related to one another and it has been theorized that long ago, the Kaws were a distinct band within the Osage tribe, which later drifted away from the larger tribe. The federal government purchased the extreme northwest corner of the Osage reservation and relocated the Kaw Nation to these lands on September 1, 1874. Being a significantly smaller tribal group and located along the Kansas border, the Kaws became inundated by Kansan settlers much like the Osages on their former reservation. In addition, they faced disease, increased liquor traffic, and horse thieves. As a result of these conditions, they could not fully pay for the land they received from the Osages. By 1877, Agent Cyrus Beede, who replaced Agent Gibson the year before, suggested that in order to help the Kaws and release them of their indebtedness to the Osages, they should be adopted by the Osage Nation. Beede argued that this course of action should at least be considered because the Kaws and Osages were so similar that the adoption of the smaller tribe would not cause any problems. While the Osages agreed and willingly offered to expand their relational web, the Kaw leaders remained vehemently opposed since they would have to surrender their tribal government, autonomy, and sovereignty. Even though the Osages never adopted the Kaw Nation they did maintain a close alliance with the tribe still allowing the Osages to expand their relational web and grow in their new home. Boutwell, 11; Gibson, "Osage Agency, I.T., Formerly Neosho, September 1, 1874," 227; Beede, "Osage Agency, Indian Territory, August 20, 1877," 94; 17 Stat., 228, June 5, 1872 in Osage Tribe Concerning House Bill 1277, 3-4; Burrill, "Grassland Empires," 69.

funds held in the United States Treasury. Since the government utilized Cherokee funds without their Tribal Council's consent, many tribal members resisted in localized ways.¹⁹¹

For example, some Osage tribal members had planted a wheat crop on Cherokee lands but moved west before harvest. When fall came, Agent Gibson searched for a threshing machine he could borrow to aid the Osages in harvesting the wheat so they could cut their remaining ties to land they had no claim over. After locating the necessary machinery, Gibson went to Silver Lake, but he found that Joseph Bennett, a member of the Cherokee Nation, had procured the wheat crop for himself. Bennett considered the Osages to be intruders, and as such, they had forfeited their improvements and crops on Cherokee lands. Gibson tried to explain that the tribe had made a mistake and settled in the area by accident, and as a result, the Osages could not be considered intruders and should be compensated for the wheat crop. Bennett refused. Gibson never secured the wheat crop for the tribe, but the Office of Indian Affairs reimbursed tribal members for this loss as well. Incidents such as this occurred between Osage and Cherokee tribal members until the Osages received the official deed of their reservation lands from the Cherokee Nation. While this initial period in Indian Territory proved to be tense between the Osages and Cherokees, the Osage Nation's commitment to maintaining beneficial relationships with powerful allies resulted in the two nations developing amicable relations. Osage tribal leaders knew they needed allies in their new home, and they worked to extend their relational web to include the larger Cherokee Nation. Although both nations became more accepting of one another, they did not become fast friends. However, due to their proximity and similar experiences during statehood, allotment, and mineral development in the early 1900s, they relied on one another for support.¹⁹²

¹⁹¹ Gibson, "Osage Agency, Indian Territory, September 1, 1872," 246

¹⁹² Gibson, "Osage Agency, I.T., September 1873," 215-215; Cracraft, 9.

The Osages primarily settled in three distinct and separate areas on the reservation according to clans formed during the great flood told in oral narratives. Tribal member, Leroy Logan, stated that the Osages scattered and sought refuge as the floodwaters rose. Some headed to the timbered areas and became known as the Dwellers in the Upland Forest. Those who sought safety on a hill became the Dwellers upon the Hilltop. Those who delayed seeking shelter were swept up in the waters and thrown into thorn trees. They became known as the Dwellers in the Thorny Thicket but are also referred to as The Heart Stays People since they did not want to leave their homes. Once in Indian Territory, each group settled in areas that resembled these initial land descriptions. The Dwellers of the Upland Forest, which consisted of the Black Dog and Claremore Bands, resided on a “wooded plateau” along a creek they called Mo’n-I’n Ga-Xa or Walks in the Night Creek. This settlement later became known as Hominy. Big Hill Joe, Walking Dog, and Tall Chief, members of the Dwellers upon the Hilltop group, led their people to an area of “buttlike [sic] and rounded hills” they called Ka-Wa-Xo-Dse, which later became known as Grayhorse. Lastly, the Dwellers in the Thorny Thicket selected lands consisting of dense, brushy forested areas in the valleys located along Bird Creek. No’n-Ce-Tonka, also known as Big Heart, Saucy Chief, Shinka-Wa-Sa, and Hard Rope led their bands to this area just below the new agency located in Pawhuska.¹⁹³

During the 1870s, as the tribe faced increasing threats to their sovereignty, tribal members remembered the advice of one of their elders and fought vehemently to protect their boundaries. Leroy Logan explained that an elder everyone simply called “God” due to his

¹⁹³ According to John Joseph Mathews, Agent Gibson counted the population of each band after they settled on the revised reservation: “Big Hills, 936; Claremore’s band, 239; Big Chief (*Tzi-Sho Hun-Kah*) band, 698; Beaver’s (*Sha-Ba*) band, 237; the Little Osages, 696; Black Dog’s band, 511; White Hair’s band, 362; and the Mixed-Bloods ‘band,’ 277; making a total of 3,956.” Mathews, 706; Leroy Logan interview, May 1968, Doris Duke Indian Oral History Project, Tape # T-254, Western History Collections, University of Oklahoma; Writers Program of the WPA, 389; Callahan, 7; Mathews, 698-699.

remarkable abilities to see visions instructed the tribe never to let go of their current reservation. The elder stated that their new reservation would prove incredibly valuable, and even though no one would see those returns for several more years, tribal leadership needed to do everything they could to maintain control of the lands.¹⁹⁴ Valuing this advice, Chief Joseph Pawnee-No-Pa-She worked with Agent Gibson to ensure the Osages would continue to own their reservation communally. This effort demonstrably affected allotment as they did not sell their surplus lands and continued to hold their mineral rights communally. It is clear tribal leaders took steps to move in the direction of communal land holdings from the moment they discussed moving to Indian Territory. The words of the unnamed elder focused tribal leaders' attention on maintaining their internal relationships through communal land holdings. This focus maintained the Osage Nation's internal relational web and helped sustain tribal leaders as they continued to address the increasing attacks from settlers.¹⁹⁵

The Osage Nation hoped moving to Indian Territory would allow the tribe to live in relative peace and thrive in the new area, but they continued to face challenges. According to Agent Gibson, one of the reasons why the Osages continued to struggle was due to the "fidelity to their pledges."¹⁹⁶ In many ways, Gibson believed tribal leaders faithfully adhered to agreements and treaty regulations even when their people suffered if the other party did not follow through with their terms. He argued that even as the Tribal Nation did everything the federal government asked of them, they still struggled due to the unfaithfulness of American policies, individual fickleness, and the nation's insistence in the belief in "manifest destiny."

¹⁹⁴ During Logan's interview, he could not remember the elder's Christian or Osage name due to the fact that everyone simply called him "God" or more likely, *Wah-Kon-Tah*, the Osage name for God. In addition to sharing his vision of the land's value, he also requested tribal members stop calling him "God." Leroy Logan Interview.

¹⁹⁵ Smith, 138; Burrill, "Grassland Empires," 70; Callahan, 11.

¹⁹⁶ Gibson, "Neosho Agency, Kansas, Montgomery Post-Office, October 1, 1871," 487.

The move to Indian Territory disrupted communities and forced Osages to live in primitive conditions until they could access resources to build more permanent structures. Due to the stress of the move and unnecessary exposure to the elements the government forced tribal members to endure, disease and sickness ran rampant throughout the tribal nation. When the Osages relocated to Indian Territory in 1872, their total population numbered 3,956. Due to the many rounds of diseases that entered the vulnerable population, by 1883, the Osages numbered 1750 individuals, a reduction by more than half.¹⁹⁷

Due to the confusion of the location of their reservation, the lack of building materials, and their pressing need to leave for their summer buffalo hunt, most Osages lived in hastily constructed shelters. Many established their homes in small camps with cramped conditions and no latrines, leading to significant instances of cholera, tuberculosis, and smallpox, each extremely contagious. Additionally, scurvy became a frequent ailment during the winters due to the lack of supplies and rations from the government, while yellow fever affected bands that settled in river bottoms in the summer months. Despite the lack of assistance and goods, historian J. C. Hicks stated that the Osages' frequent illnesses resulted "partly because of bad habits of living." When a group of people are relocated to an unfamiliar environment with no provisions waiting for them or supplied regularly, extensive disease can occur despite the best efforts of individuals forced to re-establish their communities of support. No blame should be assigned to the Osages for the state of the suffering they endured during this period. Rather, the federal government and particularly the Office of Indian Affairs failed to support the tribe through provisions that had been outlined in the Drum Creek Treaty. Federal employees waited until after the Kansas Reservation began to sell before they sent support to the Osage Nation

¹⁹⁷ Gibson, "Osage Agency, I. T. September 1873," 216; Gibson, "Osage Agency, Indian Territory, September 1, 1872," 246; Miles, "Osage Agency, Ind. T., August 11, 1883," 73.

despite the climbing death rates and illness experienced among their “faithful allies,” as they had called them throughout the treaty negotiations.¹⁹⁸

To make matters worse, many tribal members developed pneumonia due to the unusually wet and cold winter of 1872-1873. Agent Gibson expressed serious concern about the “scanty clothing” and the moccasins the Osages wore since individuals could not keep dry and often wore wet clothing. He hired a cobbler to provide sturdy boots and shoes to help alleviate the suffering of tribal members. Even though the agency cobbler worked consistently to provide warmer and drier footwear, he did not become regularly employed by the agency.¹⁹⁹ As a result, by 1881, then Osage Indian Agent Laban Miles stated the Osages once again lacked weather-resistant footwear and too frequently wore wet moccasins. Additionally, many slept on the ground with wet blankets and danced until warm and exposed themselves to the cold winters. Agency employees judged the Osages for participating in tribal dances and ceremonies and blamed them for their illnesses rather than the lack of provisions.

Tribal members desperately sought relief from doctors in the area. Miles reported tribal members “take a great amount of medicine as a preventive, and the agency physician finds numerous calls for cough sirups [sic], camphor, pills, and such simple remedies as they have learned the value of.” He seemed confused by the actions of tribal members when he reported this to the Commissioner of Indian Affairs. He viewed tribal members' actions as unnecessary and potentially a waste of resources despite the obvious illnesses and disease afflicting the tribe.²⁰⁰ However, the need for doctors on the reservation proved invaluable, not just for tending to the average needs of agency employees and the Osages but also to treat epidemics. This

¹⁹⁸ Hicks, 8; Smith, *Wahzhazhe*.

¹⁹⁹ Gibson, “Osage Agency, I.T. September 1873,” 216.

²⁰⁰ Miles, “Osage Agency, Ind. T., September 21, 1881,” 85.

particularly rang true in 1882 when measles afflicted the tribe leading to the deaths of nearly sixty tribal members. Just as soon as the measles outbreak had been resolved, on July 8th, 1882, reports that Black Dog's camp had contracted smallpox. Soon it became apparent the disease had begun to spread throughout the reservation, and the agency doctor and employees rushed to vaccinate as many tribal members as possible, but not before approximately twenty-five Osages died of the disease. Vaccination efforts and improved living conditions, as well as more stable sources of food and resources among the Osages, led to a rapid decline of epidemics like measles and smallpox. Fortunately, as the twentieth century approached, fewer epidemics plagued the Osages.²⁰¹

After signing the Drum Creek Treaty and moving to Indian Territory, the Osages expected their most recent land cession would prove satisfactory enough that settlers would leave them alone. However, much like their experiences in Kansas, settlers entered Indian Territory, claimed homesteads, and resumed their violent, aggressive behavior. White settlers started clubs and associations to protect their "claims" and frequently threatened tribal members with death if they continued asserting their "claims" were actually on the Osage reservation.²⁰² Settlers continued to steal Osage horses, but whenever the Osages retrieved their horses, settlers returned and stole more than they originally had. Settlers also took advantage of the Osages' long semi-annual buffalo hunts and raided their villages for food. Some whites raided a village in 1871 for

²⁰¹ Recent research has shown that after a measles infection the individual's immune system is not only suppressed for up to two to three years, but measles also erases the body's immunity to viruses and diseases to strains of illness previously incurred. This means it is possible that those who became infected with smallpox after the measles epidemic likely had an immunity to the virus prior to this outbreak. This type of erasure has been termed "measles-associated immune memory loss" and likely contributed to the illnesses experienced by the Osages at this time. Micahel J. Mina, et. al. "Long-term Measles-Induced Immunomodulation Increases Overall Childhood Infectious Disease Mortality," Vol 328, no. 6235, May 8, 2015, [Sciencemag.org](https://science.sciencemag.org/content/sci/348/6235/694.full.pdf) accessed at <https://science.sciencemag.org/content/sci/348/6235/694.full.pdf>. Miles, "Osage Agency, Indian Territory, September 12, 1882," 72.

²⁰² Dorn, "Office of the Neosho Agency, Quapaw Nation, September 18, 1860," 345.

building supplies like “puncheons, and wagon-loads of matting” to construct their own homes within the boundaries of the reservation. These settlers even robbed the recently deceased and interred tribal members to steal valuable goods that had been buried with the dead. Actions like these were physically, materially, and emotionally devastating to the Osages. The settlers’ bold actions incensed tribal members, yet, Agent Gibson, whom they greatly respected, continually requested no one retaliate with any kind of violence. Gibson argued that if tribal members remained peaceful in the face of the outrageous assaults, then “the question will suggest itself, which of these peoples are the savages?”²⁰³

Gibson wrote in his annual reports that the government did very little to protect Native groups from white settlers. As a result of the events in Kansas, settlers believed a clear precedent had been set: if enough whites entered an area, neither the state nor the federal government could prevent settlement from occurring, settlers would not be moved, and “political influence” would protect them and their rights as squatters.²⁰⁴ In Gibson’s 1871 report, he pointedly derided the federal government’s handling of the interactions between settlers and the Osage Nation. He stated,

...every aggressive movement of the whites tending to the absorption of their [the Osages] territory has ultimately been legalized. Thus, a kind of premium has been offered by the Government to enterprising scoundrels to ply their vocation at the expense of the Osages. The Government itself has been careless of its obligations, indifferent, it would seem, alike to its own honor and the security of the Indians. It has failed or neglected to afford them protections, and yet has allowed their persistent fidelity to truth to tie their arms and render them powerless to protect themselves.²⁰⁵

²⁰³ Gibson “Neosho Agency, Kansas Montgomery Post-Office, October 1, 1871,” 485.

²⁰⁴ Jonathon Craig, “Southern Superintendency, Fort Gibson, Indian Territory, September 30, 1870,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington: GPO, 1870), 284.

²⁰⁵ Gibson, “Neosho Agency, Kansas, Montgomery, October 1, 1871,” 487.

Clearly, Gibson felt strongly about the Osages' position, but his assertion that the Osage Nation was powerless is incorrect. Due to the recent move, their ability to act and resist intruders to their lands had been reduced by disease and poverty, but they certainly were not powerless.

Agent Gibson advocated that the border between Kansas and Indian Territory should be “held sacredly as a shelter to the poor Indian from his rapacious enemies.”²⁰⁶ Jonathan N. Craig, working as the Southern Superintendent, a Captain in the US Army, and the acting agent for the Cherokee Nation, recommended curtailing the incursion from whites by building and maintaining a military post just south of the Kansas border. By doing so, he reasoned the federal government could protect both the Osage and the Cherokee reservations so neither would face violence from Kansan settlers. However, the Commissioner of Indian Affairs never approved this plan.²⁰⁷ Gibson did receive the assistance of military personnel to “assert the supremacy of law over a few border men,” but when soldiers arrived on the Osage reservation, Gibson seemed to reverse his decision. Instead of removing the squatters, he explicitly told the troops their mission would be to “preserve the peace and protect the Osages in their occupancy.” White squatters who caused problems, broke laws, or stole from tribal members were arrested, brought to local authorities, and prosecuted in the district courts. Gibson likely believed that if he had the current squatters removed, more would simply cross the border to replace them. If that occurred after military support left, then the Osages would be in the same situation. Gibson reasoned that if he could keep the number of intruders to a minimum and enforce strict laws, additional settlers might not see the area as so desirable. To the Osages, this course of action violated their treaty and the treaties of many other Native Nations that established Indian Territory since Congress

²⁰⁶ Ibid.

²⁰⁷ Craig, “Southern Superintendency, Fort Gibson, Indian Territory, September 30, 1870,” 284-285.

had established Indian Territory as a region wholly set aside for Native Americans free from white settlements.²⁰⁸

Even with the continued tensions and federal employees attempting to mediate between settlers and the Osage Nation, tribal members started to establish their own homes. The Osages reestablished their communities as a way to stabilize the tribe as well as their relational web. This community-building process needed to happen so relationships within the tribe could strengthen before any expansion or growth of their community or web could occur. Tribal leaders had clear goals of ensuring growth for their Nation and maintained their ability to govern themselves, but the federal government and white individuals looking in from the outside had their own concerns. They believed “civilization” could be introduced through federal support of rebuilding Osage communities.

Many idealistic white reformers believed that civilizing efforts like teaching Native peoples to speak, write, and read English, dress in Western-style clothing, convert to Christianity, and live in Western-style homes with work divided along gender lines, would be a smooth and straightforward transition. However, as the 1928 Lewis Meriam Report stated in the racist terms of the day, this type of work occurred a little at a time because “primitive people are not made over in a generation.” The Meriam Report, commissioned by the Office of Indian Affairs to investigate Native conditions throughout the country, recommended “civilization” programs, but the “only way” for reformers to succeed was to “patiently guide and slowly build, having faith that in the fullness of time, devoted and intelligent service will bring results.” Reformers believed that the most effective time to incorporate ideas and methods of “civilization” was when a tribe moved to a reservation. Therefore, reformers and government

²⁰⁸ Gibson, “Neosho Agency, Kansas, Montgomery, October 1, 1871,” 486; Mathews, 687.

agents alike attempted to “civilize” the Osages as they established their communities in Indian Territory.²⁰⁹

Government employees constantly addressed the progress of the Osages in reference to methods of incorporating “civilized” practices. For instance, in 1874, Gibson stated he witnessed marked improvements in tribal members’ behavior and provided evidence for why he thought they had become more “civilized”: there had been no evidence of tribal members purposefully stampeding and killing heads of cattle crossing the reservation, mourning parties have stopped trying to avenge their deceased loved ones, liquor usage had been reduced, and buffalo hunts had become less significant for the Osages survival. Gibson viewed all actions through his western lens and chose to believe the Osages started to accept “civilization” willingly, but in reality, tribal members continued to live in ways they deemed the most advantageous for themselves. By 1874, more Osages than in previous years chose to stay on the reservation rather than attend the semi-annual buffalo hunts, not because they accepted “western civilization,” but because they recognized the dwindling number of buffalo meant they needed to pursue alternative avenues to make money to purchase supplies or to grow their own food.²¹⁰

Agent Gibson encouraged “civilization” by incentivizing certain activities that conformed to American views of how indigenous people should live and conduct their lives. For example, as part of the Drum Creek Treaty, the Osage Agency constructed and operated a sawmill. Some individuals immediately took advantage of the mill to construct their new homes and outbuildings on their homesteads, but most tribal members did not see this as necessary since they built their lodges in protected valleys as their ancestors had done for generations. In order

²⁰⁹ Lewis Meriam, et. al. *The Problem of Indian Administration: Report of a Survey Made at the request of the Honorable Hubert Work, Secretary of the Interior* (Baltimore; Johns Hopkins Press, 1928), 103.

²¹⁰ Gibson, “Osage Agency, I.T., Formerly Neosho, September 1, 1874,” 226; L. J. Miles, “Osage and Kaw Agency, August 31, 1879,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington: GPO, 1879), 69.

to advance the “civilized” condition of the Osages, Gibson announced that any tribal member who built a log home using the services of the sawmill would receive “a set of furniture consisting of bedsteads, tables, chairs, cupboards, washtubs, dishes, knives and forks, &c.” The Osages had secure homes that protected themselves from the elements, but it would have been highly unusual for an Osage family to possess furniture or sets of metal utensils. As a result, many chose to take advantage of Gibson’s offer.²¹¹ By 1881, agency employees completed around sixty log homes each year and had maintained that steady pace for several years. Reformers and agency employees saw this interest as a sign that tribal members had started to conform to American ideals. However, to tribal members, Gibson’s offer provided much-needed supplies and services that helped improve their lives as they continued to wait on the full payment of their land as stipulated in the Drum Creek Treaty.²¹²

Agent Gibson encouraged tribal members to select acreage as their own “claim” and to fence the perimeter of their “property” as another way to introduce Osages to Western “civilization.” Tribal leaders continually resisted allotting their lands, instead choosing to hold their property in common by living in communal villages with one another according to their elder’s wishes. The Osage Nation emphatically resisted any discussion of wholesale allotments until they alone were the last tribe to undergo allotment before Oklahoma statehood in 1907.²¹³ By encouraging tribal members to select “claims” upon their arrival in Indian Territory thirty years before statehood, Gibson introduced the idea of individual property ownership. Some, predominately mixed-blood Osages, did establish claims, likely due to their belief the lands would eventually be allotted. Many tribal members thought if they selected their lands before

²¹¹ Gibson, “Osage Agency, I.T., Formerly Neosho, September 1, 1874,” 223.

²¹² Hicks, 13; L. J. Miles, “Osage Agency, Ind. T., September 21, 1881,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington: GPO, 1881), 86.

²¹³ For more information about Osage Allotment, see Chapter 4: Allotment, Statehood, and Sovereignty.

allotment, they could select the most productive lands for their purposes rather than be forced to take randomly assigned acreage at a later date. To encourage even more tribal members to select their own lands preemptively, Gibson started an incentivized program for those who wanted to fence their properties. Knowing most tribal members would not see the need to fence their lands, Gibson announced another program that would pay Osages for fencing their property as well as others. Gibson argued fencing would clearly mark property lines and offer some protection from thieves and wandering livestock. In addition, paying tribal members for their efforts would provide a source of income for those individuals as well as give them an opportunity to learn a trade, a key objective of eastern reformers. Agent Gibson implemented his plan during the winter of 1872-1873 as many left the reservation to attend the winter buffalo hunt. For those who remained, Gibson offered \$2.50 for every 100 fence rails staked. Gibson reported that fifty-eight “blanket Indians” accepted his offer, and by the spring, the group had staked 81,000 fence rails, leading to a total profit of \$2,025 or \$34.91 for each participant, the equivalent of \$739.46 in modern currency.²¹⁴

The following year, Gibson continued the fencing program by offering \$1 for every 100 split fencing rails and another \$1.50 for the rails to be staked upright. In Gibson’s eyes, leaning fence posts did not warrant payment. While Gibson saw tribal members who participated in his “civilization” schemes as making great strides, he wanted even more tribal members to stay on the reservation and establish homes and crops rather than return to the plains for the next buffalo hunt. To accomplish these purposes, he told tribal members that if they made a “claim” and fenced at least ten acres of land, agency employees would “break the land” using their team of horses and plow. To further entice people to participate with the Osage Agency’s not-so-subtle

²¹⁴ Gibson, “Osage Agency, I.T., September 1873,” 216.

“civilization” plans, Gibson promised that if they started growing crops in their newly plowed fields, the agency would provide the head of household a wagon, plow, and harness. The first year Gibson offered this bonus, twenty Osages received wagons for their efforts.²¹⁵

Gibson was clearly pleased with the progress made during the first two years he offered these incentives, but by 1875, he expressed confusion about the increase in the number of Osages who participated. Gibson stated in his annual report that the Osage Agency experienced an “unusual degree of interest [that] was soon manifested by most of the wilder portion of the tribe, in selecting good claims, splitting rails, cutting house-logs, improving roads, &c. It appeared that nearly every family was determined to have a farm.” Gibson’s statement reveals that he had focused on the “civilizing” principles that would result from Osages adopting western agricultural lifestyles. However, Osages who participated in the incentivized activities did not desire to become “civilized” – they recognized an opportunity to reap great rewards.²¹⁶

When the Osages moved to Indian Territory and settled within their reservation, they had few belongings and little to no money. The only food they had available was what they brought from Kansas; since they moved in the spring, their supplies included dried buffalo from their winter hunt and the remaining stores of corn from the previous harvest. They planted seeds they carried with them and relied on rations provided by the government until the harvest. As buffalo hunts grew less profitable, the Osages' ability to trade and barter for what they needed diminished. In order to trade with general stores and their proprietors located outside the bounds of the reservation, tribal members needed a way to earn money.²¹⁷ When Gibson introduced the

²¹⁵ Gibson, “Osage Agency, I.T., Formerly Neosho, September 1, 1874,” 223.

²¹⁶ Gibson, “Osage Agency, Indian Territory, September 1, 1875,” 276.

²¹⁷ In the early years on the Osage Reservation, no trading posts existed within the reservation bounds. After 1874, traders could establish stores on the reservation, but they had to be licensed by the Office of Indian Affairs. The Florer and Dunlap Trading Post was the first licensed store in Grayhorse. Finney Collection, WHC.

lofty ideals of Eastern Reformers to the Osage reservation, he focused on putting the Osages to work and teaching Western-style farming and manual labor techniques. To him, earning a little money only served as a bonus. For people trying to pick up the pieces after an unwanted and challenging move, any form of income and goods helped alleviate their present condition: the work and skills they may or may not learn did not factor into their decisions. It is likely that if Agent Gibson had not offered opportunities to aid the Osages in building log homes, plowing fields, or providing goods like wagons and harness, tribal members would have existed in a poor state for a much lengthier period. Instead, the tribe endured this difficult period and persevered using any means they could to support themselves and their families.

Agent Gibson's statements demonstrate his obliviousness or willful ignorance to the Osages' activities and the various means they supported themselves through their changing circumstances. He believed that tribal members spent too much time planting, hunting, negotiating, and trading and that if they stopped pursuing these diversified interests and just focused on "agricultural pursuits" alone, then the tribe "would soon place them[selves] in affluent circumstances." He believed the Osages' trips to the plains searching for buffalo had become too dangerous, likely because tribal members existed for three to four months at a time outside his purview.²¹⁸ To eliminate this potential threat to "civilization," Gibson asked the Commissioner of Indian Affairs for additional rations, provisions, and farming implements, as well as people to come and educate tribal members on how to grow and raise their own food so all tribal members could be "settled" at once.²¹⁹

The federal government provided the tribe with seeds, farming implements, and livestock when they moved to Indian Territory, and as the 1870s progressed, the Osages' crops returned

²¹⁸ Gibson, "Neosho Agency, Kansas Montgomery Post-Office, October 1, 1871," 484.

²¹⁹ Gibson, "Osage Agency, Indian Territory, September 1, 1872," 246.

promising yields. During good growing seasons, tribal members had plenty of food and saved enough seeds to plant in the spring without any assistance from the Osage Agency. In 1875, tribal members harvested 20,000 bushels of wheat and 56,000 bushels of corn. However, with more Osages relying on agricultural pursuits, their diversified economy declined. This meant that if any sort of hardship occurred, as it did in 1882 when hogs raided their fields, the tribe's wellbeing was threatened.²²⁰

Despite Gibson's "civilizing" efforts, many white reformers still expressed concern about the Osage Nation's dependence on buffalo, which became most evident when tribal members left their homes, crops, and villages for months at a time. To white reformers, the time tribal members spent on the plains hunting and "living by the chase" led to the direct undoing of any progress towards "civilization." Osage agency employees grew concerned about the semi-annual hunts since their absence from their homes made them susceptible to theft. From the Osages' perspective, buffalo provided them with a significant source of income that surpassed what they could earn through farming alone. Additionally, tribal members reasoned, white intruders stole livestock and destroyed crops even when they remained on the reservation. In fact, some families tried their hand at farming, but white squatters stole their farming implements and destroyed their crops, forcing them to head to the plains in search of buffalo.²²¹

A complicating factor of life among the Osages during the 1870s concerned access to food and the changing environment. Throughout the years spent on the Kansas Reservation, most tribal members participated in cyclical buffalo hunts, with only a handful of individuals remaining on the reservation. However, once in Indian Territory, tribal demographics included

²²⁰ Callahan, 12-13; Isaac T. Gibson, "Osage Agency, Indian Territory, September 1, 1875," in the *Annual Reports of the Commissioner of Indian Affairs* (Washington: GPO, 1875), 277; Miles, "Osage Agency, Indian Territory, September 12, 1882," 72; Miles, "Osage Agency, Ind. T., August 11, 1883," 74.

²²¹ Boutwell, 41-42.

increasing numbers of mixed-blood Osages who did not necessarily want to participate in the semi-annual buffalo hunts. Instead, mixed-bloods typically represented those in the tribe who established homesteads and farms. As a result, they wanted and needed to stay on their “claims” to care for their crops in the western style of agriculture they learned from agency employees and protect their homes from potential raids from white squatters entering the reservation. By 1870, 250 tribal members were mixed-blood farmers. Additionally, buffalo hunting had become increasingly dangerous and time-consuming since white settlers pushed herds further west, and professional buffalo hunters killed thousands of the animals for their hides. The tribe might have had more corn at their disposal due to the agricultural pursuits of the mixed-bloods, but corn never proved to be a valuable trade resource like the buffalo hides had been in the past. Tribal members had always relied on the external relationships they created through trading alliances, but without a lucrative trade commodity, the tribe’s economy and the external portion of their relational web remained threatened.²²²

Despite attempts to keep them on the reservation, tribal members continued to head west twice a year to locate what buffalo remained on the plains. During their 1871 summer hunt, Joseph Pawnee-No-Pa-She and other tribal leaders negotiated a peace agreement with several plains tribes, including the Arapaho with whom the Osages had long been at war. Negotiating peace not only ensured the safety of tribal members as they traveled through the western plains but also allowed the tribe to expand their relational web. This alliance ensured the Osages had powerful allies to their west, who could come to their aid if needed. By negotiating an alliance with the Arapahoes, tribal leaders secured a promising and valuable trading partner that they had

²²² On professional buffalo hunting and the near extinction of the American Bison, see Geoff Cunfer, ed. *Bison and People on the North American Great Plains: A Deep Environmental History* (College Station: Texas A&M University Press, 2016). On buffalo hunters and railroad expansion, see White’s *Railroaded*. Newman, 145; Gibson, “Neosho Agency, Kansas, Montgomery Post-Office, October 1, 1871,” 483.

not been able to access since before the Civil War. After moving to Indian Territory, the Osage Nation had new opportunities to foster and grow their wealth through trading agreements and the expansion of their external relational web. The ability to negotiate with their long-standing enemies opened the door to additional opportunities to strengthen the Osage Nation.²²³

Those who participated in the semi-annual buffalo hunts typically had little to no acreage under cultivation and therefore relied on consistent and successful hunts to ensure their survival. Western settlers quickly realized the value of buffalo for the meat, but by the 1870s, people throughout America demanded buffalo hides for various reasons, including symbols of wealth and as drive belts that ran the increasing industrialization of America. Osage women traveled with their husbands, fathers, and brothers who hunted while they prepared the hides and cured them using the oil from the brains of the buffalo. These hides garnered the most money, up to ten dollars each, since this process left the leather more pliable. If hides were left “green” and tanned back on the reservation after the hunt concluded, the resulting product earned closer to three dollars per hide since it resulted in a usable but notably inferior material. Even with the range of prices, when buffalo remained plentiful and their hunts were successful, the Osages existed comfortably due to their trading relationships. However, the demand for buffalo led to dwindling numbers of animals that became increasingly difficult to locate.²²⁴

In 1872, when the Osages returned from their first buffalo hunt to their new reservation, they reported they traveled at least 200 miles west before they even spotted signs of buffalo herds. As tribal members traveled further away from their reservation, Agent Gibson grew increasingly concerned that the Osages might find themselves in dangerous situations with no one to come to their aid. He also knew tribal members had started trading with western tribes

²²³ Gibson, “Neosho Agency, Kansas Montgomery Post-Office, October 1, 1871,” 487.

²²⁴ Washwahgaley, 18.

who often criticized them for the little provisions tribal members received.²²⁵ Gibson frequently heard disparaging reports of these encounters, and tribal members were told: “that was the price of his submission and friendship to the whites – nakedness and starvation.”²²⁶ In an attempt to retain a connection with tribal members even as they ventured across the plains away from the agency, Gibson received authorization to hire another federal employee for a position entitled “trail-agent” starting in 1874. The first trail-agent, Benjamin Kite Wetherill, stationed at the Sewall-Huffaker store on the Chisholm Trail, traveled from one hunting party to the next to check on their condition throughout the hunts. While Osage reactions to the presence of a trail-agent following their every move have not been recorded, Agent Gibson remained pleased and reassured by Wetherill’s reports that tribal members had not committed violence towards other tribes, settlers, or their property.²²⁷

In addition to the presence of a trail-agent, Gibson also sent Thomas Finney to accompany the buffalo hunts. Finney worked as an employee at the Osage Agency commissary and for his brother-in-law, John Florer, who opened the first licensed trading post in Pawhuska with his partner Robert W. Dunlap. Finney traveled with the Osages and provided goods and provisions in exchange for hides. Prior to this arrangement, tribal members only traded hides once they returned from their hunts. However, with Finney representing the Dunlap & Florer “Old Red Store,” following behind them with twenty-five wagons full of flour, bacon, coffee, blankets, hatchets, strouding, calico, arrowheads, and “all kinds of trinkets,” the Osages lived

²²⁵ Gibson, “Osage Agency, I.T., Formerly Neosho, September 1, 1874,” 222-223; Hoag, “Central Superintendency, Lawrence, Kansas, October 8, 1870,” 258; Gibson, “Osage Agency, Indian Territory, September 1, 1872,” 246.

²²⁶ Gibson, “Neosho Agency, Kansas, Montgomery Post-Office, October 1, 1871,” 488.

²²⁷ Wetherill did not stay long in Indian Territory, likely because the position of trail agent was discontinued around 1876. At that point more Osages remained on the reservation since buffalo hunting had become dangerous and not economically viable. After the trail agent position ended, Wetherill, took his family and settled in Colorado near the Mancos River. Wetherill Family Collection, 1867-1964, MS 001, Museum of Northern Arizona, Flagstaff, Arizona. Gibson, “Osage Agency, I.T., Formerly Neosho, September 1, 1874,” 226; Mathews, 714; Washowahgaley, 18.

much more comfortably while on the plains, particularly as they resided in their winter campsites. Eventually, representatives from the rival trading post, Hiatt & Co., also followed the Osages on their buffalo hunts, leading to a regular supply of wagon loads of buffalo robes returning to the reservation as tribal members continued to hunt on the plains.²²⁸

There is some debate as to when buffalo hunts started to become less profitable and more of a liability for the Osages. By the time they moved to Indian Territory, buffalo herds had moved further west, and the herds began to dwindle in size. Although for the 1872 and 1873 hunts, the Osages continued to make a profit. During the 1872 winter hunt, the Osages found a small herd of buffalo in western Oklahoma which provided meat for the tribe, but this did not equal the profits they saw in previous years.²²⁹ Knowing they did not have enough food stored and not having the promise of more profitable buffalo hunts in the summer, tribal members returned to Indian Territory in the spring of 1873 and immediately wanted to plow fields and plant crops. Since Gibson had promised agency employees would break the ground for whoever wanted to plant, many decided to act on the offer. In fact, so many Osages declared they wanted to plant crops that Gibson and the agency had difficulty keeping up with “their urgent demands” even after they purchased more “breaking teams and hired others to break and plow.” Some seemed so severely disappointed by the prospects of buffalo hunting that they decided to accept all of Gibson’s offers of assistance and incentivized programs to help establish tribal members on homesteads. As a result, Gibson reported that some Osage families decided to trade a portion of their horses for cattle. He attributed this to individuals wanting to “quit a roving life,” but it is

²²⁸ Mathews, 714; Washowahgaley, 18.

²²⁹ Smith, “Big Bluestem,” 117; Mathews, 666.

more likely that some tribal members took advantage of an economic opportunity and what they considered a more stable means to feed and support their families.²³⁰

As tribal members prepared to depart for the summer buffalo hunt, Gibson counted that out of the 530 Osage families, 209 had anywhere between one and eighty acres of land plowed and under cultivation. The number of individuals growing crops soared, but much to Gibson's chagrin, most tribal members left once more for the summer hunt. Almost to prove the agent's point that the Osages needed to remain on the reservation, tribal members encountered tremendous difficulties during this hunting excursion. An unnamed daughter-in-law to one of the band leaders died during the hunt, and as customary, a group of warriors formed a mourning party to search for someone outside the tribe they could sacrifice so the spirit of the woman could rest at peace.²³¹ As the mourning party searched the plains, they found Es-A-Da-Na, the chief of the Wichita Nation, hunting buffalo. Not knowing his position among the Wichitas, they killed the chief and returned to camp with his scalp in hand. Tribal leaders immediately expressed concern at the possibility of going to war with the Wichitas, or by extension, their alliances with powerful plains tribes. To avoid further conflict, Osage tribal leaders led a delegation to meet with the Wichita Nation. They acknowledged their mistake and apologized by providing the bereaved tribe with money, horses, blankets, guns, and other trade goods, to equal what Agent Gibson estimated to be \$1,500. The Osages did not have the means to give away such large quantities of goods, but the tribe understood that if they did not willingly give all they could, then the Nation would likely lose everything if they found themselves at war. The

²³⁰ Gibson, "Osage Agency, I.T., September 1873," 216.

²³¹ For a detailed description of mourning wars as they relate to the Osages see George A. Dorsey, *The Osage Mourning-War Ceremony* (CreateSpace Independent Publishing Platform, 1902) and Francis La Flesche, *Traditions of the Osage: Stories Collected and Translated by Francis La Flesche*, edited by Garrick Bailey (Albuquerque: University of New Mexico Press, 2010).

Osage Nation understood that if they did not immediately address their wrongdoings, they risked their entire relational web. The relational web relied equally on strong internal relationships between tribal members and bands and strong alliances with external parties. With less profitable buffalo hunts and establishing their community in a new home, they could not risk offending any external alliance, so tribal members did all they could to alleviate the devastating loss that had occurred for both parties.²³²

The summer hunt ended with low profits, the avoidance of a violent conflict with the Wichita Nation, and at least one tribal member being attacked and wounded by a group of Arapaho warriors. Because the profits from the summer hunt had been so low, more people decided to remain on the reservation for the winter buffalo hunt than in previous years. These individuals remained on their claims and worked for the Osage Agency to earn some money. To the surprise of many, the 1873-1874 winter buffalo hunt yielded 10,800 buffalo robes that tribal members traded for around \$68,000 of goods. These profits reminded the Osages of previous successful hunting trips that set them apart from many tribal nations due to their wealth.²³³ Those returning from the plains used this money to purchase “coffee, sugar, flour, blankets, calico, and other necessities.” Unfortunately, however, these proved to be the last profits from any buffalo hunt.²³⁴

As the Osages finished their last successful buffalo hunt, tribal leaders took advantage of one of their last times spent at their winter camps on the plains to negotiate peace with the Pawnee, a long-standing enemy of the tribe. Having heard about the efforts of the United States military attempting to remove southern plains tribes, including the Comanche, Kiowa, Southern

²³² Gibson, “Osage Agency, I.T., September 1873,” 216-217; Gibson, “Osage Agency, I.T., Formerly Neosho, September 1, 1874,” 226.

²³³ Newman, 144; Elder, “Office Neosho Indian Agency, Fort Scott, Kansas, 1861,” 62.

²³⁴ Gibson, “Osage Agency, I.T., Formerly Neosho, September 1, 1874,” 222, 226.

Cheyenne, and Arapaho, to designated reservations in Indian Territory, Osage leaders advised the Pawnees to make peace with the Cheyenne in order to support them as tensions rose between themselves and the military. Osage leaders shared their experiences with the United States government and military with their new allies to create trust and craft a strong alliance. Tribal leaders looked beyond their immediate needs and pursued a beneficial alliance with a former enemy. This not only opened the door for additional trading opportunities but also strengthened the Osage Nation by expanding their external relationships, thereby further supporting their relational web. By making attempts to ensure the stability of their allies, Osage tribal members benefitted in turn.²³⁵

Even though tribal leaders encouraged peace among the plains tribes, the spring and summer of 1874 marked the rise of hostile encounters, now known as the Red River War. While the conflicts surrounding the Red River War occurred between the U. S. military and the Cheyenne, Comanche, and Kiowa Nations, the increased military presence in the southern plains made everyone exceedingly uneasy. White settlers feared imminent uprisings by Native Americans, and the Osages, who had always been loyal and peaceful to the United States, feared “being mistaken for hostile Indians by the United States troops.”²³⁶ Despite their fear, many Osages continued to the plains in May of 1874 for their summer buffalo hunt. Almost as soon as the hunting parties left the reservation, tensions rose to a fever pitch. Agent Gibson sent runners to inform the hunting parties that war had started, and he recommended they return to the reservation at once. Gibson meant well, but by the time the messengers reached the Osages, the tribe had separated and scattered in various directions in smaller hunting parties, so not all tribal members were aware of the heightened dangers on the plains. Small hunting parties that headed

²³⁵ Foreman, 267; Mathews, 715.

²³⁶ Foreman, 275.

due west found “very poor” buffalo, and hunting parties from other tribes drove them back east before any significant numbers of buffalo could be found.²³⁷

Tribal members faced difficulties procuring supplies and rations, and conditions between tribal members and white settlers continued to devolve. Whenever bands of Osages traveled back and forth to the plains hunting buffalo, many reported how white hunters “deem[ed] it as good sport to shoot at Indians as buffalos.” Several tribal members returned to the reservation stating they had been shot at “without provocation” as they traveled across the plains.²³⁸ White settlers just across the Indian Territory border continued to accuse the Osages of stealing dozens of horses, contributing to additional violence. Agent Gibson asked Thomas A. Osborn, then Governor of Kansas, if he and some state representatives would come to the Osage reservation to see for themselves what the condition between settlers and Osages had come become. He hoped a personal visit would dispel rumors that the “Osages were about to invade Kansas.” Osborn responded to Gibson’s repeated requests with silence.²³⁹

By June 1874, correspondence between Kansans settled in Barbour County around Medicine Lodge, just north of the border, stated that “the lives of the people are in danger. We need immediate assistance,” in response to a number of Indian raids resulting in the death of three men, Isaac Keim, J. Martin, and Elijah Kennedy, as well as the theft of countless horses.²⁴⁰ William M. Friedley, the Probate Judge and Register of Deeds of Barbour County, advocated for Osborn to establish a military company to protect citizens from the attacks from Native

²³⁷ Baird, 59; Gibson, “Osage Agency, I.T., Formerly Neosho, September 1, 1874,” 223, 226; Mathews, 708, 718.

²³⁸ Gibson, “Osage Agency, Indian Territory, September 1, 1872,” 246.

²³⁹ Boutwell, 41; Mathews, 712.

²⁴⁰ Barbour County was named after Thomas Barber who is considered a martyr as he died due to his firm beliefs as a “freestater” and fought to keep slavery out of Kansas. It is unknown how, but Barbour County was misspelled when organized on April 14, 1874 and that spelling remained until the Kansas state legislature passed an act correcting the spelling to “Barber.” Kansas Historical Society, “Barber County, Kansas” <https://www.kshs.org/kansapedia/barber-county-kansas/15260>.

Americans. Friedley believed “something must be done for our defense, or we must perish, together with our women and children, as it is utterly impossible for many to get away.” Even with the continued discussions about impending attacks and the rising fears and steady exodus of individuals from the county, Governor Osborn never took military measures.²⁴¹

It is important to note that while there is evidence demonstrating Osage tribal members' theft of cattle and the killing of other livestock, there is no evidence that the Osages could be held responsible for the attacks on Kansans during this period. The County Attorney, M. W. Sutton, specifically stated that the deaths of settlers occurred at the hands of the “Arapahoes or Cheyennes – probably the latter.” However, in a postal script, he added that he and others believed “that the Cheyennes, Arapahoes and Osages have consolidated for hostile purposes.” The Osages had solidified alliances and relationships with plains tribes, but their purpose had been to expand their trading network and strengthen their external relational web. They even encouraged plains tribes to remain peaceful during the recent events, but due to their proximity to Barbour County, the Osages received undue blame for the actions of Plains tribes that moved in and out of the area.²⁴²

Amid the hysteria that gripped Kansan settlers about impending Indian attacks, in August 1874, Big Wild Cat and his band of twenty-nine, including ten women and children, moved about the plains in search of buffalo. The hunting party soon found themselves near Medicine Lodge Creek in their former reservation lands. The Osages negotiated for the rights to access the plains and their former Kansas lands in the Drum Creek Treaty for hunting purposes, as long as

²⁴¹ Wm. M. Friedley, et. al. to T. A. Osborn, June 17, 1874 in *The State Government and the Indian Bureau, The Osage Troubles in Barbour County, Kansas in the Summer of 1874* (Topeka, KS: Geo. W. Martin, 1875), 3; M. W. Sutton, et. al. to Thomas A. Osborn, June 19, 1874, *ibid.*, 3-4; B. P. Ayers to Capt. Morris, June 20, 1874, *ibid.*, 4; S. B. Douglass to Mr. Osborn, June 21, 1874, *ibid.*, 5; William M. Friedley to Thomas A. Osborn, July 1, 1874, *ibid.*, 6; C. S. Brodbent to T. A. Osborn, July 23, 1874, *ibid.*, 7; John Pope to T. A. Osborn, July 10, 1874, *ibid.*, 6.

²⁴² M. W. Sutton, et. al. to Thomas A. Osborn, June 19, 1874, *ibid.*, 3-4.

those lands remained uninhabited; due to the continued tensions between the tribe and Kansas settlers, Gibson feared the increasing dangers of doing so. He had “asked them to stay out of Kansas” to limit their exposure and to prevent any accusations of wrongdoing.²⁴³ Big Wild Cat’s band approached the Kansas state line, where they asked a group of white men if they had seen any buffalo. The conversation was friendly, and the men directed Big Wild Cat further into Kansas on the unsettled portions where they had recently spotted a small herd. The hunting party proceeded into Kansas and quickly found a herd of buffalo near Cedar Springs. The band set up camp to process the animals and dry the meat over campfires. As the group went about their work and likely remarked on their good fortune on finding some quality buffalo close to their homes, a group of around forty white men approached the hunting party “mounted, and armed with breech-loading guns and revolvers.”²⁴⁴

The white men did not enter the hunting party’s camp, and because the Osages could not see the men clearly, two Osage men approached but were quickly “disarmed” and “detained.” Knowing something must be wrong, but being too far away to witness the proceedings, another two men went to greet the strangers, but as they approached, the white men disarmed and detained them as well. This continued until the group of white men held eight Osages captive, and as Agent Gibson described the account, then “the work of death commenced.” The white men began shooting at the detained Osage men, killing four while the other four escaped and ran for their lives. One of the men killed was a revered warrior named Broke Arm, who had once served with the 1st Osage Battalion for the Confederate States of America under the division of

²⁴³ Mathews, 709-710.

²⁴⁴ Gibson, “Osage Agency, I. T., Formerly Neosho, September 1, 1874,” 226; Foreman, 275-276.

Stand Watie's Brigade in the Trans-Mississippi Department during the Civil War.²⁴⁵ Big Wild Cat stated when he heard the guns fire, "he was like the rabbit sitting moving his ears wondering which way to run..." As the four men escaped and reached camp, the group "sprang on their ponies" and "fled for their lives" leaving everything they had behind. The white men chased the hunting party for three to four miles, all while continually firing upon them; however, no one else died during the attack. Finally, the white men turned around, leaving Big Wild Cat and his band wondering what they should do next.²⁴⁶

As Big Wild Cat and his people watched and waited, they discussed returning to their camp to retrieve their supplies and horses. They decided to return to the camp as well as send a messenger to the Osage Agency to request support. Those who returned to the camp several hours later discovered everything they had left behind, including four guns, the meat and hides they started preparing from the hunt, and fifty-four of their horses and mules had been stolen. What remained had been destroyed beyond usability. While salvaging the remnants of the camp, two men volunteered to return to the location where the attack started so they could care for the deceased. When they arrived, they found three of the men but never could locate the fourth victim. Two of the men had been scalped, and "the bodies were hacked so that parts fell away when they tried to place them on mules." Lacking any tools and not finding any large rocks nearby, they placed the bodies at the bottom of a "cut bank, and stamping and digging at the top caused them to be buried by the crumbling soil."²⁴⁷ After the necessary but heart-breaking task of burying their loved ones had been completed, the remaining twenty-five members of the

²⁴⁵ Gibson, "Osage Agency, I. T., Formerly Neosho, September 1, 1874," 226-227; "Confederate Regular Troops, 1st Osage Battalion, CSA," National Park Service, accessed at <https://www.nps.gov/civilwar/search-battle-units-detail.htm?battleUnitCode=CCS0001B000I> on April 28, 2019.

²⁴⁶ Mathews, 710.

²⁴⁷ *Ibid.*, 710-11.

hunting party traveled back to the reservation. The party traveled five days with no food, no weapons or tools to secure food or to make a camp, and “most of them [were] nearly naked” by the time they met “two large wagons” sent by Agent Gibson filled with supplies and food for the victims of the attack.²⁴⁸

Immediately after the attack, later called the Medicine Lodge Massacre, the white Kansans who participated and followed the lead of Cyrus M. Ricker, Captain of the Company A, Barbour County Militia, started to draft their version of events to notify Governor Osborn and C. A. Morris, the Adjutant General of Kansas. According to Ricker, a group of forty Indians arrived at a stockade in Kiowa, Kansas, stole two teams of horses, set fire to the prairie, and rode off in the direction of Cedar Hills. When Ricker and his men arrived at the Osages’ camp, they witnessed forty to fifty “young braves of the Osage tribe,” and as the men approached, the Osages sent some delegates to meet them “with their bows strung and arrows in their hands, guns and revolvers cocked” while the rest “formed for battle on a hill.” Ricker claimed the Osages fired upon them first and attempted to stampede their horses. In response, “We then commenced firing on them, and had an exciting time for a few moments.” According to this account, five Osages died, and several were wounded while no white man died, but one did have severe injuries. In a following report, Ricker insisted the Osages had fired first, and “they were on a marauding, if not a *murdering*, expedition [emphasis in original].”²⁴⁹

Ricker’s account is patently false. Big Wild Cat’s party consisted of women and children and men to complete the tasks required to secure buffalo meat and hides to sustain themselves. Buffalo hunting parties typically included immediate family members and remained small so

²⁴⁸ Gibson, “Osage Agency, I. T., Formerly Neosho, September 1, 1874,” 227.

²⁴⁹ C. M. Ricker to the Adjutant General, July 24, 1874” in *The Osage Troubles*, 7-8; Captain Ricker’s Report of the Engagement of August 7, 1874 to C. A. Morris, *ibid.*, 8-9; C. M. Ricker to the Adjutant General, September 10, 1874, *ibid.*, 10.

they could approach herds without scaring them away with the noise and smells accompanying many individuals. Since they traveled in family groups, Ricker's insistence that the Osages "were all young men" simply could not be accurate. He also mentioned the Osages' use of guns which most tribal members at this time, particularly those participating in the semi-annual hunts, refused to use due to the likelihood a herd of buffalo would stampede at the sound. Perhaps even more telling is how Ricker's account altered through subsequent iterations. The final version told how Ricker had his men hide themselves in a ravine while he approached alone, and then his men came out for reinforcements. Based on the testimony taken soon after the event, it is apparent that Ricker and his company of twenty-three men developed their story and refused to deviate from it. In fact, Lewis Hanback, Captain and Special Aid-de-Camp under Ricker's command, took it upon himself to recount his own version of events and then interview other men involved to record their accounts. However, instead of recording everyone's memories, Hanback simply took the account of D. E. Sheldon, a merchant and resident of Barbour County, and read his written statement and had others swear to its validity. Ricker conducted a similar set of interviews, thereby maintaining control of the narrative that made himself look like the hero rather than the attacker.²⁵⁰

Agent Gibson spoke vehemently against the violence from Kansan settlers. He stated in his annual report, "It can not [sic] be denied that the menacing attitude of the border at this time when the Osages are smarting under their recent wrongs requires vigilance and constant effort to counteract." Many Osages appreciated their agent's efforts but believed, according to tribal customs, a mourning party should avenge the deaths of the four murdered men, much like what

²⁵⁰ Affidavit of Capt. Ricker, September 1874, *ibid.*, 10-11; Testimony of D. E. Sheldon, *ibid.*, 44-48; Statement of Reuben Lake, *ibid.*, 48; Statement of Jesse Melton and C. M. Boughton, *ibid.*, 49; Testimony of Wm. M. Friedley, *ibid.*, 49.

had occurred when they avenged the death of a young woman on a previous hunt.²⁵¹ One group of warriors prepared to travel north to attack white settlers, but before they could leave, Chief Che-Sho-How-Kah approached them. He offered the warriors his money, his favorite horse, and his own life as payment for the families of the deceased. The warriors did not take the chief's life or his prized possessions, but they understood his actions and his commitment to peace and negotiation in an effort to maintain the strength of their relational web. He offered valuable personal possessions as payment for the death of the murdered men, which protected Osage customs and their internal relational web, but this also encouraged tribal members to handle their grief internally rather than affect their external alliances. Che-Sho-How-Kah's actions succeeded in preventing further bloodshed through self-sacrifice.²⁵² For the following year after the attack, various groups of Osage warriors attempted to retaliate for the deaths of their people, but each time tribal members persuaded them to stop and wait for the government to take action against the wrongdoers. Osage leaders remained resolute and relied on their allies in the federal government, who they had incorporated into their relational web, to pursue justice and potential reparations for the damages incurred.

Gibson knew tribal members wanted to strike a counterattack, but he actively tried to prevent any violence from escalating for fear a war would start between the Osages, white settlers outside of the reservation, and illegal squatters on Native lands. Gibson even stated whenever he approached squatters on the Osage reservation, they acted as "angry wicked men...Many or most of them wanting to take my life." The massacre not only put the Osage Nation on edge, but settlers just across the border also developed a sense of nervous anticipation

²⁵¹ Mathews, 711-714.

²⁵² Gibson, "Osage Agency, Indian Territory, September 1, 1875," 280.

that the Osages would attack at any moment.²⁵³ However, Gibson and other agency employees tried to preempt the uneasiness people felt by visiting settlers and explaining that the Osages had always remained peaceful. Gibson even invited settlers to the reservation so they could see for themselves that tribal members did not plan to go to war. No one accepted the offer. Rather, settlers simply decided to leave the area, while others organized local militias and began “prowling around the borders of the reservation for the purpose of shooting Osages and precipitating a war which they express a great desire for.” Gibson likely shook his head as he stated the money and effort expended to create the militias would equal “an iota of the expense” to purchase replacement livestock and goods to provide “for the children and families of the murdered, which would have made a lasting bond of friendship with the tribe.” Gibson clearly understood the Osages' desire to create a strong external relational web and desired to convince settlers that this tribal nation was well on the path of “civilization.” He hoped their white neighbors would negotiate peace and, through their relationship, further his assimilation efforts among tribal members. Gibson may have supported the Osages in formulating their external relationships, but his true intentions espoused the rhetoric of Eastern Reformers.²⁵⁴

Although Gibson ensured Kansan citizens the Osages would remain peaceful, on the reservation, tribal members mourned and prepared to avenge the deaths of their friends and family. Even those who disagreed forming a mourning party would be an appropriate course of action “were not in a happy mood” and knew they had nothing to do with the Red River War or the attacks on settlers. They had been severely “misjudged.” Gibson began to fear he could potentially lose control of the situation, so he sent messengers to Fort Sill, Indian Territory, over 200 miles southwest from the Osage Agency in Pawhuska. In response, a troop from the 5th

²⁵³ Mathews, 686.

²⁵⁴ Gibson, “Osage Agency, I. T., Formerly Neosho, September 1, 1874,” 227; Miner and Unrau, 138-139.

Cavalry who had just returned from fighting the Kiowas during the Red River War arrived at the Agency unannounced to the Osages.²⁵⁵ Tribal leaders had been holding council with Cyrus Beede from the Superintendent's Office in Lawrence, Kansas and likely felt their sovereignty had been undermined by Gibson and the federal government since the agency "was at once put under military rule, and as night settled down, pickets were placed, and 'who goes there' was frequently heard up and down the valley, now Main street." The "Indian Fighters," as the troops stationed on the Osage reservation came to be called, spent the winter of 1874-1875 with the Osages leading to a regimented style of life for everyone as they "arose and retired to the sound of the army bugle," yet another sign tribal leaders did not have complete autonomy over their people during this period. Tribal leaders expressed particular displeasure that Agent Gibson, their local government representative, had not communicated his plans to invite soldiers to the reservation. Due to their alliance with the federal government, tribal leaders felt they should have been consulted prior to any involvement with the military, especially since their people were treated as military prisoners.²⁵⁶

A potential cause for the violence among white Kansans at the time can be traced to a drought and plague of grasshoppers. Many Kansans, who witnessed their crops fail to grow or being utterly destroyed by grasshoppers, started looking at alternative means to provide for their families. In response to the poor agricultural season, Governor Osborn agreed to pay rations to anyone fighting against Native Americans as long as unrest continued along the state's western and southern borders. Ricker wrote to Adjutant General Morris that he needed 100 pounds of flour to feed his men each day, but he also needed enough rations to provide for their families. Ricker closed his report stating, "I want to know whether you are going to help us or not: we

²⁵⁵ Beede, "Osage Agency, Indian Territory, August 20, 1877," 90.

²⁵⁶ Wahshowahgaley, 20-22.

must have provisions and ammunition immediately.”²⁵⁷ Gibson speculated that settlers continued to incite violence with the Osages as a way to get more support from the state.²⁵⁸

Gibson formed his own investigation to determine what happened and to document witness statements on both sides. The commission consisted of Mahlan Stubbs, the former agent of the Kaws, United States Commissioner Kellogg, and Edward Finney, a trader, former trail agent, and trusted friend of the Osages. Nearly as soon as the investigation began, they met resistance from Governor Osborn and the men involved in the attack. When the commissioners arrived at Medicine Lodge, Kansas, roughly eighteen miles away from the massacre site, Captain Ricker and Lieutenant Mosley met them, acknowledged the attack “with a vicious satisfaction,” but refused to give any testimony under oath. They stated they “were accountable to no one but the governor of Kansas.” Gibson’s investigation did not glean much insight into the events, but they gathered enough information to determine that Osborn supported the men and falsified papers mustering every Kansan involved to show they acted as militiamen on behalf of the state government “so as to legalize this cruel massacre.”²⁵⁹

Gibson’s commission supported the Osages, but due to the Kansans' long-standing racism towards the tribe and their unwillingness to speak to the commission, tribal members advocated for redress themselves. Che-To-Pah, Joseph Pawnee-No-Pa-She, Hard Rope, and James Bigheart, among others, met with Agent Gibson, Edward Smith, and Enoch Hoag in Lawrence, Kansas, to discuss the possibility of reimbursement for the losses sustained by tribal members of Big Wild Cat’s band.²⁶⁰ Tribal leaders used their alliance with the federal government as they

²⁵⁷ Mathews, 711; Captain Ricker’s Report, August 7, 1874 in *The Osage Troubles*, 9.

²⁵⁸ Gibson, “Osage Agency, I. T., Formerly Neosho, September 1, 1874,” 227.

²⁵⁹ *Ibid.*; Mathews, 711-712.

²⁶⁰ The full roster of individuals involved include, Sam Bevenue, Ogese Capton, Bill Mathews, Che-To-Pah, Isaac T. Gibson, Big Wolf, No-Po-Wal-La, Sah-Pe-Ke-Ah, Edward P. Smith, Pawnee-No-Pa-She, Tah-He-Kah-He, Mo-

had cultivated via their relational web to convince the commissioners to authorize a formal commission. The Commissioner of Indian Affairs agreed since an official commission would eliminate any bias that may have been present in the previous investigation. This commission consisted of F. H. Smith, J. W. Smith, and the former Kansas Territory Governor Wilson Shannon. The report conclusively determined that even though Kansan officials called Ricker and his men a “militia,” they had acted on their own accord and had “no such authority...vested in them.” Governor Osborn instead called the men into service ten days after the attack at Medicine Lodge Creek with “the order being ante-dated so as to cover this outrage.”²⁶¹ Edward P. Smith, then Commissioner of Indian Affairs, concluded the Osages had been attacked without provocation and thus murdered. Governor Osborn was incensed with these findings and denied any illegal actions had occurred. Furthermore, Osborn decided he would conduct his own investigation to prove his men had told the truth and acted justifiably when the Osages “made the first attack.” This investigation reinforced the previous testimonies of the men involved in an almost formulaic group of responses as if the account of the events had been rehearsed. Fortunately for the Osages, the Secretary of the Interior, Columbus Delano, firmly stated, “The testimony in possession of this Department, touching the facts of this case, seems conclusive that the act committed by the so-called Kansas Militia was a wanton and unprovoked outrage upon the Osages.”²⁶²

Even after the investigation cleared tribal members of any wrongdoing and recommended the Kansas government pay reparations for the Osages affected by the actions of Kansan settlers’

Shom-Ko-She, Enoch Hoag, Ok-On-Se-Was-Ka, Ne-Kah-Ke-Pun-Na, Tally, Little Wolf, Hard Rope, Jim Bigheart, and Paul Aken. Thomas M. Galey, *Second Delegation of Osage Indians, Lawrence, Kansas*, 1874. Kansas Historical Society, Topeka, Kansas, Item 305401; Gibson, “Osage Agency, I.T., Formerly Neosho, September 1, 1874,” 225.

²⁶¹ C. Delano to Thomas A. Osborn, December 7, 1874, in *The Osage Troubles*, 15-16.

²⁶² Testimony taken under Governor Osborn’s direction was extensive, repetitive, and deeply troublesome. The full report is included in *The Osage Troubles*, 22-64. Edward P. Smith to C. Delano, July 3, 1875, *ibid.*, 19-20.

violence, the tribe had not received any form of apology or payment a year after the event. Rather, Governor Osborn insisted the Osages were responsible for their own deaths at Medicine Lodge Creek. He argued that because the Osages had a reservation, they should stay there, and if they did so, “they need apprehend no interference from our [Kansas] citizens; but it is high time that they understood that they can trespass upon the State only at their peril.”²⁶³ Despite the continued resistance from the Kansas state government, tribal members hoped Congress might send the orphans and families of the deceased some sort of monetary payment for the “restoration of the property” stolen during the attack. Gibson supported reparations and tried to convey that without any sort of apology or amends for their loss, eventually, Osage warriors would attack Kansas settlers. Tribal members never did retaliate despite no reparations being delivered by the Kansas state government. Eleven years after the events near Cedar Springs, Congress passed legislation allowing the Secretary of the Interior to pay the heirs of those killed in the massacre. The payment, totaling \$2,451 went towards reimbursing the loss of trading goods, livestock, and supplies stolen by the Kansans.²⁶⁴

The Osages continued to hunt buffalo on the plains after the Medicine Creek Massacre, but they no longer crossed the Kansas border even though they still had the legal right to access their former lands. Osborn’s support of frontier violence enforced the border and perpetuated racism and the white supremacist actions of his citizens. However, due to the continuing decline of the American Bison, fewer and fewer tribal members participated in the hunts. The Osages’ last buffalo occurred during the summer of 1876, but it proved to be the worst hunting season the tribe had ever seen due to continued overhunting for their hides. In the past, tribal members

²⁶³ Thomas Osborn to C. Delano, September 11, 1875, *ibid.*, 22-29.

²⁶⁴ Gibson, “Osage Agency, Indian Territory, September 1, 1875,” 280; Edward P. Smith to C. Delano, July 3, 1875, *ibid.*, 19-20; Chap 359, March 3, 1885, 23 Stat. L. 446, 363 in Barney, 27.

typically returned with hundreds of hides for trade, but during this particular hunt, tribal members traveled hundreds of miles only to return with so few hides the trade value did not even recoup the monetary or physical costs of the hunt. The failed hunt forced the Osages to realize they needed to find alternative methods to support their people.²⁶⁵

From the moment Agent Gibson arrived among the Osages, he touted agriculture as an alternative to buffalo hunting. When the Osages moved to Indian Territory, they encountered unseasonably wet weather, which generated large crop yields. By the spring of 1874, the Osages and agency employees came to expect the same weather pattern to continue, so they planted more than they had in the past. However, environmental conditions reverted to a more arid climate, and when tribal members returned from their summer buffalo hunt, they found their crops had died in the drought-like conditions. To make matters worse, the plants that had survived the drought had been “ravaged by myriads of grasshoppers which came from the north.” The drought continued and became increasingly severe, leading to dry stream beds and dry wells.²⁶⁶

With failed crops and failed buffalo hunts, the Osages and their livestock slowly began to starve from want of food and water on their reservation. Settlers continued to claim Native crops as their own, despite the presence of agency employees and mixed-blood Osages defending their homes and resources. Theft caused the Osages great harm due to their decreasing stores of dried buffalo meat from the plains and their increasing reliance on the corn crops to feed their people. Traders on the reservation stocked their shelves with supplies and foodstuffs. Many began relying on credit at this time to obtain the items they needed, but this quickly led to a cycle of

²⁶⁵ Smith, *Big Bluestem*, 139; Cyrus Beede, “Osage Agency, Indian Territory, August 15, 1876,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington: GPO, 1876), 54.

²⁶⁶ Gibson, “Osage Agency, I.T., Formerly Neosho, September 1, 1874,” 223; Miles, “Osage and Kaw Agency, August 31, 1879,” 69; Miles, “Osage Agency, Ind. Ter., September 10, 1880,” 76.

indebtedness that many tribal members could not easily escape. Even if tribal members could get what they needed to supplement their rations, the primary alternative protein source was salt pork, which soon made many ill due to the radical departure from their previous diet.²⁶⁷

Tribal members did not receive immediate aid from the Osage Agency or the Office of Indian Affairs. Rations remained meager, resulting in many tribal members killing the cattle that roamed onto the reservation or grazed just across the border. This met the needs of the tribe for food, but it also increased tensions with cattlemen who submitted “exorbitant claims for redress” to the Osage Agency. Rather than expanding their relational web and incorporating more individuals into their external support system through trade or a beneficial agreement between the tribe and cattlemen, these thefts drove a wedge between the two parties. William Redus, a settler in Kansas or a squatter within the bounds of Indian Territory – the record is unclear, became an easy target for Osage hunters due to his close proximity to the reservation. He accused tribal members of stealing 144 head of cattle from him during the severe drought. After an investigation, Congress authorized the Secretary of Interior to access \$3,600 from the Osages Treasury funds to pay Redus for the cattle. The Osages who stole cattle took it upon themselves to provide desperately needed food for their people when they realized the government would not send rations, nor did they have enough money to purchase their own supplies before their people suffered further.²⁶⁸

Even though tribal leaders repeatedly asked for more food or even money to purchase the food they needed, the federal government only acted after the Osages began stealing cattle, leading to complaints from settlers started to pour into agency offices. Their inaction makes it

²⁶⁷ Newman, 146; Baird, 62.

²⁶⁸ Hoag, “Central Superintendency, Lawrence, Kansas, October 8, 1870,” 258; Chap. 196, March 3, 1881, 21 Stat. 653 in Barney, 26.

clear that the Office of Indian Affairs was more concerned about keeping the tenuous peace along the Indian Territory and Kansas border than they were about the condition of the Osages themselves. In 1877, after three years of worsening conditions, Congress authorized the Treasury Department to give the Osages up to \$50,000 being held in trust for the tribe to “be expended for their benefit, to aid them in agriculture; for their care and support, and in extending improvements already begun on their reservation, and in any other manner to promote their civilization and improvement.” This language diminished the near-starvation conditions of the Osages and hid the federal government’s inaction in the face of suffering.²⁶⁹

The Osages’ limited resources and food were further complicated by the fact that the money from the sale of their Kansas lands slowly came to their aid. Since the federal government held their Kansas lands in trust, the Office of Indian Affairs maintained control of the lands until settlers purchased acreage, and only then did the money get deposited into the Osages’ Treasury fund. The majority of people, particularly settlers who tried to profit from the “vast riches” the Osages had at the time, mistakenly believed that the eight million dollars in prospected profits from the land sale would be available upon their move. The land sales did start quickly, and even before the Osages moved to Indian Territory, the eastern most portion of their reservation had been sold in 160-acre lots and three counties formed. However, due to treaty stipulations, the Osage Nation could only receive the interest from the principal sum, making any meaningful amounts of money significantly slower in coming to the aid of the tribe.²⁷⁰

²⁶⁹ Chap 19, January 12, 1877, 19 Stat. 221 in Barney, 22.

²⁷⁰ Drum Creek Treaty, May 27, 1868 in Fitzpatrick, 28-43; Chap. 807, August 19, 1890, 36 Stat. L. 336 in Barney, 28.

To further complicate matters, Congress continually deferred to the difficulties of white settlers while subsequently ignoring what would aid the Osage Nation. Those who initially settled on the Osages' former Kansas reservation needed to provide payment for the chosen acreage within the first year of settlement. However, by 1876, Congress altered that stipulation and instead required an initial down payment of twenty-five percent of the total purchase price. Then the settler would have three years to complete the purchase of the property. Even though settlers eventually paid five percent interest in yearly installments, the additional interest payments did not solve the more immediate needs of the Osages. In 1880, once again, Congress provided an extension for Kansans needing more time to pay for their claims. Because of these deferments, the average tribal member received \$10.50 from the Osage common fund for the year. While this money helped, it did not radically change the tribe's circumstances.²⁷¹

Congressmen who approved the Drum Creek Treaty thought it reasonable that the sale of eight million acres of former Osage lands could take around ten years to sell, but to the Office of Indian Affairs, the lengthy process began to weigh on their patience. In the spring of 1881, Congress passed a statute allowing the Office of Indian Affairs to sell any remaining lands at a public auction at seventy-five cents per acre. This law allowed public auctions to occur yearly as long as land remained available. Each auction dropped the price per acre by twenty-five cents until it reached twenty-five cents per acre, the lowest price the federal government was willing to part with the land. Even with the deeply discounted price, the "isolated or disconnected tracts or parcels of land one-quarter or less" of a section in size remained unsold by 1900. To dispose of those lands, the Office of Indian Affairs advertised auctions in local papers to potential buyers who could purchase at most one-quarter section of land. While the delay in land sales affected

²⁷¹ Gibson, "Neosho Agency, Kansas, Montgomery Post-Office, October 1, 1871," 485; Chap 259, August 11, 1876, 19 Stat L. 127 in Barney, 20; Chap 107, May 28, 1880, 21 Stat. L. 143 in Barney, 22-23; Lamsam, 276.

the Osages and when they received their money, the deeply discounted lands did not affect the total price credited to the Osage Nation's account. Due to the Drum Creek Treaty stipulations, the federal government purchased the Kansas reservation from the Osage Nation at \$1.25 per acre. Therefore, the federal government sold the lands and then deposited the appraised price of \$1.25 per acre into the Osage's account regardless of the final sale price. In the end, the federal government lost money on hundreds of acres and had to reimburse the Osages for the full amount stipulated by the treaty. This strict adherence to the Drum Creek Treaty greatly benefitted the Osages. It is possible that the Osages' history of utilizing their relational web and using external allies to aid them in times of need deterred lawmakers. Since many legislators vividly remembered the Osage Nation's lawyers ruthless defense of their clients and allies in response to the fraudulent Sturges Treaty and the corrupt Leavenworth, Lawrence, and Galveston Railroad through the court system, it is likely legislators and federal employees agreed to simply abide by the treaty terms rather than risk costly and lengthy legal actions from the Osages.²⁷²

The Osage Agency did distribute some rations to the tribe as per the arrangements of the Drum Creek Treaty, but once tribal members saw the quality of the rations, they declared they were "being fed like dogs."²⁷³ Thomas Finney stated the rations were "rather a joke, since the issue was scanty and necessitated a weekly trip to the Agency by the head of each family in the far-flung bands."²⁷⁴ The first couple of years, Gibson freely distributed the tribe's rations, but by 1875 he required the Osages to work for their payments of rations. Tribal leaders decried this practice saying "it was a great injustice" to work for food that had been purchased with their money held in trust by the government. The arrangement meant the Osages paid "twice for their

²⁷² Chap 149, March 3, 1881, 21 Stat. L. 509 in Barney, 25-26; Chap 799, June 6, 1900, 31 Stat. L. 659 in Barney, 29-30.

²⁷³ Miles, "Osage Agency, Ind. Ter., September 10, 1880," 77.

²⁷⁴ Diary of T. M. Finney, Box 1, File 7, Finney Collection, WHC.

subsistence.” In addition, this system promoted the unequal distribution of goods to those who worked harder or performed tasks the agency deemed more appropriate or “civilized” than activities important to tribal members, such as hunting buffalo. The exact reasons why Gibson started this payment system remains obscured; however, it is likely that his original incentivized programs of paying Osages to split rails for fencing or rewarding those who started a homestead with furniture and wagons no longer were funded by the Office of Indian Affairs. Perhaps in an attempt to perpetuate the momentum these original actions had started in “civilizing” the Osages, Gibson started to replace the incentives or extra goods with the Osages' very own rations. If this is the case, then the meager rations were stretched and divided between those who completed tasks Gibson sanctioned while the majority of tribal members wasted away with fewer and fewer goods available to aid them.²⁷⁵

Gibson received staunch criticism from tribal members soon after implementing his unique plan of distributing rations, but it is unlikely he expected criticism to come from the Cherokees. William Penn Adair, one of the lawyers the Tribal Council hired when they needed help reversing the decision of the corrupt Sturges Treaty, had not received payment for his services and started to discuss the issue with tribal leaders. While trying to sort out how much the Osages owed Adair and Vann, the other lawyer involved, Gibson's ration program became a topic of conversation. In fact, Adair “ridiculed them [the Osages] for laboring, telling them their agent had no authority to purchase supplies for them, but it was his duty to give them their money in hand, so they could buy what they pleased, and have white men and other Indians to do their work...” The bottom line to Adair was clear: the Osages “were not children to be treated in this manner...” Adair also told council members that the cattle overseen by the agency had been

²⁷⁵ Gibson, “Osage Agency, Indian Territory, September 1, 1875,” 276.

purchased using tribal money, so they had the right to kill whatever head of cattle they wanted whenever they needed food. Gibson found Adair's "interference" in Osage affairs exasperating, but the Osages respected Adair due to his and Vann's effective legal maneuvers that absolved them from the Sturges Treaty.²⁷⁶

Adair's conversations with Big Chief and Black Dog's bands encouraged those tribal members to use "forcible seizure" to get money and rations they desperately needed. Warriors even went to other bands to actively prevent tribal members from picking up their ration tickets from the agency as a form of protest. Agent Gibson described the full-bloods who resisted as "the wildest and most insolent of the tribe," especially as the majority of full-blood Osages wanted to continue holding their land in common rather than select claims of their own. Many mixed-bloods, or "half-breeds," as he called them, argued they would also benefit by having access to the tribe's money held in trust. The mixed-blood Osages found support from the Catholic missionaries in the area, which frustrated Gibson's protestant sensibilities to the point where he reported to the Commissioner of Indian Affairs that the whole tribe had come under the "baleful effects of these corrupt, uncivilizing influences" from outside the reservation. According to Gibson, conditions on the reservation had deteriorated to the point where the federal government would have to "rid the reservation of these elements, or abandon the Osages to their rapacious greed." Gibson's response to those who challenged his authority came in the form of "threats of personal violence...made against those Indians who were disposed to obey the law..."²⁷⁷ Gibson obviously had enough of what he considered rebellion among tribal members against his policies. He had clear goals for the Osages, but much to his chagrin, tribal

²⁷⁶ Gibson, "Osage Agency, Indian Territory, September 1, 1875," 276.

²⁷⁷ Ibid, 276-278.

members refused to comply with his “civilization” plans, notably when the process led to large scale suffering among tribal members.

These events demonstrate how the Osage Nation utilized their relational web to support their people. As they discussed Gibson’s unfair practices with their allies outside the tribe, they relied on their external alliances for advice and support. They sought legal advice from Vann and Adair, and they listened carefully to what Father Schoenmaker at the Osage Mission had to say since he had been a faithful ally for decades. What Gibson viewed as meddling from outside parties who had no business to influence tribal members is precisely how the Osage Nation designed their external relational web to operate. They called on external allies in times of need, then discussed among themselves to determine the best course of action. By using their external allies and their internal relationships, tribal members worked together to advocate for their needs. In this case, their reliance on the internal and external relational web resulted in enough pressure on Agent Gibson for him to allow traders to establish stores within the bounds of the Osage reservation. In this way, tribal members no longer had to rely only on the Osage Agency for their goods.²⁷⁸

Gibson may have yielded to the Osage Nation’s pressure for change by allowing traders direct access to the tribe, but he did so with conditions in mind. Gibson enacted some stipulations as to the character of potential traders who would establish trading relationships with the tribe. In order to maintain and reinforce the goal of “civilizing” the Osages, and in keeping with the traits of “temperance and good moral influence”²⁷⁹ Gibson witnessed among tribal members, he required all potential traders to show proof, documentation, and at times, witnesses attesting to them being “honest, moral, temperate, and are regular attendants of religious service

²⁷⁸ Baird, 62.

²⁷⁹ Gibson, “Osage Agency, Indian Territory, September 1, 1875,” 281.

and Sabbath-school at home.” Any signs of “profanity, intemperance, card-playing, and kindred vices, are not tolerated among the traders and employes [sic]...” Although the requirements to obtain licensing might have been strict, Gibson attempted to grant several licenses so tribal members could choose their trading post so they could get the highest prices for buffalo robes and the lowest prices on much-needed goods.²⁸⁰

Having always participated in trade with their neighbors, tribal members soon realized their new trading partners within the reservation would sustain them throughout a difficult time in their tribal history. Additionally, many traders viewed the Osages as potentially lucrative trading partners not just because of their previous track record of bringing high-quality buffalo hides back from their hunting trips but also because of the widely reported money the Osages received when they sold their Kansas reservation. The Osages did receive a lump sum to help them move and establish an agency, hire agency employees, and purchase building and farming supplies, livestock, and provisions. However, most of the proceeds from the sale of their former lands were not realized until the 1880s as the treaty stipulated the principle would remain intact and only interest would be paid to the tribe. However, traders in the area did not concern themselves with these details. Instead, multiple individuals attempted to enter Osage lands to encourage tribal members to demand their annuity payments to be made in cash rather than in goods supplied by the government. In the minds of whites, the Osages had lots of ready cash available, and they wanted to get a piece of the proceeds. The Osage Nation’s situation changed dramatically for the better in the 1880s, but the tribe continued to barely eke out an existence throughout the 1870s.²⁸¹

²⁸⁰ Gibson, “Osage Agency, I.T., Formerly Neosho, September 1, 1874,” 224-225.

²⁸¹ Mathews, 706; Boutwell, 41.

Tribal members continually sought new ways to earn money to purchase their own goods with traders so they could release themselves from the oversight of agency employees and supplement their limited rations. Interestingly, the Osage reservation's remote location provided tribal members with an additional form of income. The reservation bordered the Cherokee Nation on the east, the Cherokee Outlet on the West, and additional tribal nations to the south. Being surrounded by other tribal nations made it difficult for agency employees to contact the Office of Indian Affairs in Washington, D. C. Elgin, Kansas, approximately forty miles due north of Pawhuska, served as the agency's closest point of contact to government officials and the outside world. Only outside Indian Territory could agency employees send telegraphs or letters, greet visitors at rail depots, or receive supplies sent from Washington. In order to physically move these goods and travel back and forth, agency employees needed to freight goods over poor roads throughout the reservation. This took time and effort that the already overworked agency employees could not always afford to spend. Employing others to complete the task of freighting goods throughout Indian Territory became commonplace for business owners and agency employees alike. Tribal members started freighting goods to the agency and especially from the agency to other communities throughout the reservation.²⁸² By 1880, tribal members freighted 203,017 pounds of goods to and from the Agency "without the loss of a single package." Tribal members who participated in carrying loads of freight took advantage of yet another economic opportunity during this period of hardship.²⁸³

²⁸² William Henry Harrison interview with Charles H. Holt, Hominy, Oklahoma, October 26, 1937, Works Project Administration, Indian-Pioneer History Project, Western History Collections, University of Oklahoma; Charles Clifton Drew interview with W. T. Holland, July 14, 1937, WPA, Indian Pioneer History Project, WHC; Miles, "Osage Agency, Ind. T., September 21, 1881," 87.

²⁸³ L. J. Miles, "Osage Agency, Ind. Ter., September 10, 1880," in the *Annual Reports of the Commissioner of Indian Affairs* (Washington: GPO, 1880), 77.

Freighting became such an essential part of their economy, the Osage Tribal Council proposed building roads and improving the paths the freighters took to improve the ease of delivery. In order to build roads that accessed all tribal communities within the reservation, the National Council passed an act that required every citizen in the Osage Nation between the ages of twenty-one and forty-five years old to contribute to the road construction project for at least two days out of the year. If an individual refused to work, the Tribal Council fined them anywhere between \$5 and \$10, or if they could not pay the fines, the individual would be forced to spend five to ten days in jail. By taking it upon themselves to construct roads throughout the reservation, tribal leaders recognized economic opportunities and envisioned a future of trade and extensive networks of relationships coming and going from the reservation. The physical manifestation of improved roads throughout the reservation demonstrates a tangible form and view of the Osages reconstructing their relational web and growing their influence throughout the area. While these first roads would be used primarily internally by the Osages, which would strengthen their community relations, soon the roads became critical to external parties whom tribal members incorporated into their relational web through beneficial alliances. This became the case as soon as the 1880s, as ranchers began using the roads for cattle drives and later oil developers and wildcatters during the beginning stages of oil development in the 1890s.²⁸⁴

Even though tribal members tried to utilize their limited resources to the largest effect, they found that no matter what they did, Agent Gibson attempted to enact a “civilizing” angle to their actions. All Indian Agents at this time encouraged Native peoples to adopt westernized “civilization,” but Gibson tended to take things further and on his own accord with increasing

²⁸⁴ It is unclear exactly how many miles of road tribal members completed during this project. They first focused their attention on constructing a road from the Agency in Pawhuska to the closest rail depot in Elgin, Kansas. From there, they turned their attention to building roads from the Agency to Hominy, around twenty miles south, and to Grayhorse, around nineteen miles to the southwest. An Act Relating to Roads, Article XIII in Fitzpatrick, 96.

frequency. As a result, tribal members and leaders grew weary of Gibson's actions. They particularly hated his inaction when they needed additional food and rations only to make things more difficult by adding stipulations and requirements to meet his goals of "civilization." In the spring of 1875, the Osage Tribal Council sent a petition to Edward Smith, the Commissioner of Indian Affairs, and to President Grant accusing Gibson of not providing rations the Osages needed. In addition to Gibson requiring tribal members to work for their rations, he began allowing chiefs of individual bands to distribute the rations to members of their bands.²⁸⁵ During an investigation into Gibson's conduct, he stated that he had also heard complaints that tribal members had not received their annuities and charged that the individual band chiefs were "thieves [who] will not divide honorably."²⁸⁶ The Office of Indian Affairs employees conducting the investigation found that Gibson had made a poor decision, resulting in tribal members going without food due to his decisions. However, they believed his intentions meant no intentional harm, and he did not desire to show favoritism to some tribal members over others. However, the petition the Osage Tribal Council sent to Washington was clear; they wanted Gibson removed from the reservation. Gibson lost the trust and respect of the Osage Nation, leading Commissioner Smith to recall Gibson from service. Cyrus Beede soon replaced him as Osage Agent.²⁸⁷

When Agent Beede arrived on the reservation, he found a highly displeased tribal nation and limited resources to address their concerns. Knowing that many Osages had not received their annuities or food from the agency and that some had claimed "greater advancement" to receive extra goods, Beede immediately distributed the remaining annuities available and sent

²⁸⁵ Edward P. Smith, "Report of the Commissioner of Indian Affairs, November 1, 1875," in the *Annual Reports of the Commissioner of Indian Affairs* (Washington: GPO, 1875), 37.

²⁸⁶ Gibson, "Osage Agency, Indian Territory, September 1, 1875," 277-278.

²⁸⁷ Miles, "Osage and Kaw Agency, August 31, 1879," 70.

word to Washington to send additional supplies at once. He recognized the impossible situation the tribe had been placed in and sympathized with their needs, but in order to receive aid quickly, he related his request in paternalistic terms. He stated that the Osages were barely on the cusp of accepting the idea of “civilization.” He argued that without access to their treasury funds, young warriors might steal and commit “depredations” because the government failed to respond to their requests. Beede’s appeals proved effective, and the Osages received additional supplies for the remainder of 1876.²⁸⁸

Although Beede secured more annuities, many tribal members expressed their dissatisfaction that they had still not received the annuities that had previously been due to them. Beede grew increasingly frustrated with the Osages’ requests and complaints, and although he continued to make requests to the Commissioner of Indian Affairs on their behalf, his feelings towards the tribe grew increasingly cold. In his 1877 annual report, only his second year on the reservation, Beede stated the Osages had “savage propensities, their early teaching that thieving, plundering, murdering, scalping, and like pursuits, are in accordance with the wishes of the Great Spirit...” Through this report, it appeared as though Beede had simply resumed trying to enforce “civilizing principles” on the Osages, yet they remained resistant. The perceived lack of “progress” frustrated the new agent to the point where he left his position the following year.²⁸⁹

Laban Miles, the next Indian Agent for the Osages, established a friendly relationship with the tribe and, as a result, quickly gained their respect and served among the Osages for thirteen years. The Osages understood trading and bartering and supported themselves utilizing economic opportunities. Therefore, they quickly realized the unfair practices Agent Gibson started and Beede perpetuated through the distribution of their annuities and supplies. When

²⁸⁸ Beede, “Osage Agency, Indian Territory, August 15, 1876,” 54-55.

²⁸⁹ Beede, “Osage Agency, Indian Territory, August 20, 1877,” 94, 90.

Laban J. Miles arrived on the Osage reservation, to his credit, he recognized their desires to engage in capitalistic trading relationships and their need for fair distribution of annuities, which resulted in the implementation of a new system of distributing their annuities. The first and most significant change resulted in every tribal member obtaining their annuity themselves, which prevented individuals from stockpiling goods that should have been distributed among others.²⁹⁰ Almost immediately after the first disbursement, Miles stated the change “had done much to place all upon an equal footing...” Additionally, Miles listened to tribal members' previous requests that their annuities come in the form of cash payments instead of in the form of inferior or unwanted goods. While Miles could not get the federal government to agree to all cash payments for the tribe, he did resume Gibson's earlier practice of giving the Osages part of their annuities in cash and the rest in foodstuffs and supplies. Finally, tribal members received some of the money the Treasury Department held in trust for them so they could actively improve their status and situation through negotiations and trading alliances.²⁹¹

The Osage Nation faced considerable changes during the 1870s: buffalo hunts ended, continued affronts and even a massacre perpetrated by settlers, disputed ration payments, failed crops, disease, starvation, and limited support from the federal government to access to their own treasury funds. Nevertheless, throughout these circumstances, tribal members relied on one another and utilized what resources they could to provide for their families. However, taking advantage of the limited economic opportunities that came their way did not ensure their survival alone. Rather tribal leaders understood the importance of creating and maintaining their legal status and authority over their people and the land they owned. To maintain their independence

²⁹⁰ Smith, *Big Bluestem*, 139; Gibson, “Osage Agency, I.T., Formerly Neosho, September 1, 1874,” 225; Gibson, “Neosho Agency, Kansas, Montgomery Post-Office, October 1, 1871,” 488, Gibson, “Osage Agency, Indian Territory, September 1, 1875,” 276.

²⁹¹ Miles, “Osage and Kaw Agency, August 31, 1879,” 70.

and support their people while the Office of Indian Affairs continually tried to push ideas of “civilization” and “assimilation,” tribal leaders began crafting a significantly more extensive tribal constitution. The Osage Nation had enacted their first tribal constitution in 1861 to assert their sovereignty to the Kansas government and the countless squatters on their Kansas reservation. By 1881, leaders recognized that so many of their circumstances had changed. They needed to strengthen their internal relationships and firmly state their sovereign nation status to the United States through a new constitution.

Many Office of Indian Affairs employees stated the Osage Nation did not have any organized form of government until 1881, but this is simply untrue. This view of Osage political structure originated from Indian Agents who did not understand the system of hierarchical leadership purported by the tribe. Each band had its own leader, often providing the band with their name, such as the Bigheart or Strike Ax bands. When needed, leaders from each band would gather and discuss what would be in the best interest of the tribal nation.²⁹² Even though this structure worked well for tribal members, Agent Cyrus Beede, who came to the Osage reservation in 1876, stated that the Osage tribe was “large, discordant, and unmanageable, rendering it almost impracticable to transact necessary business with the tribe.” As a result, Beede encouraged tribal leaders to adopt a more western style of leadership with one individual as the sole leader of the tribe who would be called a “governor,” with the support of a chief counselor and a business committee of five persons. The Osages agreed to this as more rumors

²⁹² For a more detailed conversation about Osage hierarchical leadership and societal structure, see Louis Burn’s *Osage Indian Bands and Clans*.

reached the reservation that large groups of white settlers had started advocating for western lands in Indian Territory to be opened for settlement.²⁹³

In 1876, Beede, with the support of the Office of Indian Affairs, authorized the Osages to start a Tribal Council. The Council then appointed Joseph Pawnee-No-Pa-She as their first Governor and Hard Rope as the Lieutenant Governor. The Osage Nation had grown in size with the creation of new bands, so a reconsideration of their tribal government was not an unreasonable action by this time. However, Agent Beede's involvement clearly tried to diminish Osage sovereignty. In fact, Beede actively tried to utilize the newly formed business council, as he called it, to implement federal policies. He believed that if he could influence the Tribal Council, they could encourage the remainder of the tribe to support federal policies. Beede decidedly underestimated the leadership abilities and intelligence of tribal members.²⁹⁴ Isaac Gibson spent his tenure among the Osages pushing the ideas of civilization and assimilation policies. When Beede arrived, he believed he could accomplish this goal more efficiently if he infiltrated Osage tribal leadership in an attempt to undermine the Nation's sovereignty.

Tribal leaders may have tolerated Gibson's assimilation rhetoric to a point, but they flatly refused to entertain Beede's interference. Tribal leaders quickly took measures to remove their agent's influence from the Tribal Council. They declared themselves not the Osage tribe, but the Osage Nation "with a big 'N'" and organized under James Bigheart.²⁹⁵ The Osages also wanted to elect their own officers and provide a salary from their tribal funds and create laws to govern

²⁹³ It is likely Agent Beede felt like he could insert himself into tribal politics because at this point few individuals could speak or write English. In 1873, only 35 full blood Osages could speak English and only 14 could read and right. The number of individuals educated in English remained exceedingly low until the 1890s. *Osage Tribal Murders*; Osage Tribal Council, *Osage Indian Tribe Centennial Celebration, 1872-1972*, n.p.; Gibson, "Osage Agency, Indian Territory, September 1, 1875," 281; Beede, "Osage Agency, Indian Territory, August 15, 1876," 54; Beede, "Osage Agency, Indian Territory, August 20, 1877," 92; Newman, 168-169.

²⁹⁴ Wilson "Chief Fred Lookout," 48; Miles, "Osage Agency, Ind. T., September 21, 1881," 86; Miles, "Osage Agency, Indian Territory, September 12, 1882," 73.

²⁹⁵ Callahan, 11-12.

themselves when disputes arose. In January 1881, Chief James Bigheart called a council to discuss how the tribe could maintain their lands, prevent theft, and assert their tribal authority and sovereignty so they could negotiate directly with the federal government from a position of power. As one agent stated, “This government is a very real thing to the Osage,” as having a robust tribal government would support internal relationships by preventing and settling disputes and expanding their influence outside the reservation through new alliances. With a Tribal Council supporting the expansion of their relational web, both internally and externally, the whole tribe would benefit.²⁹⁶

The 1881 constitution proved the tribe had “a realistic, workable form of government” that had been modeled after the Cherokee constitution. Tribal leaders chose to use their ally’s Constitution as a guide since it had been upheld as a legally binding document by the federal court system throughout multiple legal cases since the early 1800s.²⁹⁷ Modeling their constitution from the Cherokees also made sense because the Cherokees Nation had used the United States Constitution to assert their sovereignty as a Native Nation.²⁹⁸ The Tribal Council started their constitution in similar lofty rhetoric to the United States constitution, leading some to state the wording alone demonstrated the Osages “high degree of self-government, and civic and educational development...Any people that can, with the spirit and purpose of such a preamble, were, or are, or ought to be, as capable of self-government and as competent and well cited to protect the weaker ones of their nation, as any community of the face of the American continent.” Taking the step to draft an extensive constitution in 1881 established a powerful

²⁹⁶ Dennison, 21.

²⁹⁷ Callahan, 12.

²⁹⁸ Fitzpatrick, 51.

legal foundation that would guide the Osages through the litany of complex legal quandaries that would arise during the oil development period.²⁹⁹

In the spirit of the American government, the Osage constitution created three branches of tribal government: executive, legislative, and judicial. The executive branch consisted of a Principal Chief who served in two-year terms with the support of three individuals acting as advisors on the Executive Council. The legislative branch included the National Council, with members selected from five districts throughout the reservation. Each district had three representatives who served two years at a time. The National Council typically met only once a year unless extenuating circumstances led the Principal Chief to call members to order. Tribal members took their role in tribal government seriously and showed much interest in elections. The first elections were held in November 1882, but candidates started visiting neighbors and villages up to eight months in advance of election day.³⁰⁰

Those who served in any official capacity for the tribe received some sort of compensation for their work. For example, members of the National Council received \$100 per year while the National Treasurer received ten percent of all the “moneys that may pass through his hands as provided by law.”³⁰¹ The compensation aided those who served but was not intended for individuals to become wealthy from their service. Tribal leaders negotiated to provide stipends for tribal officials as another way to gain access and disperse the money held in trust by the Treasury Department. To ensure that tribal members took their position seriously and did not simply run for election for the prospect of wealth, every elected official on the

²⁹⁹ Haskell Institute Club, n.p.

³⁰⁰ Osage Constitution, December 31, 1881, art. II § 1 in Fitzpatrick, 52; Osage Const., art. IV, § 1 in Fitzpatrick, 55; Osage Const., art. III, § 1 in Fitzpatrick, 52; Osage Const., art. III, § 2-4 in Fitzpatrick, 52-53; Beede, “Osage Agency, Indian Territory, August 20, 1877,” 92.

³⁰¹ Osage Const., art. IV, § 23, in Fitzpatrick, 58.

council swore to a “very strict oath of affirmation.” Tribal members swore in part “...that I have not obtained my election by bribery, threat, or any undue and unlawful means, used by myself, or other, by my desire or approbation for that purpose...”³⁰² Members of the Haskell Institute Club, an organization for former members of the off-reservation boarding school in Lawrence, Kansas, remarked that “Such an oath would certainly make many state politicians tremble, and even turn pale, because of the great desire, that it implies, for a pure government.” The Osages saw the corruption of the Kansas state government and many of the unfair policies of the Office of Indian Affairs, so they did everything in their power to limit corruption and personal gain through participation in the Osage National government. This eye towards fairness and equality among tribal members helped to fortify their relational web within the tribe and between tribal members.³⁰³

Strengthening their relational web among themselves proved to be an essential measure, but that did not mean the tribe would be secure from outside influences. The Osage Constitution also provided measures for sheriffs and tribal police located throughout the reservation. Tribal members elected a sheriff for each district who served two years. Indian police met with the sheriff once a month to exchange information about squatters, lost property, and any number of civil disputes among tribal members. After the Osage police formed, they became crucial members in negotiating for the return of or repayments for lost or stolen property. Before their formation, the Osage agent or agency employees tried to find and prosecute individuals who targeted the Osage Nation for theft, but their limited numbers made this a difficult process.

³⁰² Osage Const., art. III, § 10 in Fitzpatrick, 54.

³⁰³ Haskell Institute Club, n.p.

Instead of waiting for federal employees to come to their aid, tribal members exerted their authority to manage their affairs.³⁰⁴

The judicial branch of the Osage Constitution consisted of a district court that met twice a year in Pawhuska to hear both civil and criminal cases between tribal members. Any misdeed perpetrated by non-Natives that occurred within the bounds of the Osage reservation came under the purview of the district court, which Congress affirmed in 1897. In special cases, the Tribal Council could conduct their own supreme court consisting of one Chief Justice and two Associate Judges who would decide “all civil cases” as criminal cases involving non-Natives on Osage lands were declared federal cases. One of the more frequent reasons to hold Supreme Court cases would be in relation to appointing guardians to care for “any person that is not competent to take care of his or her own business.” The type of guardianship the Osages practiced before mineral development on their lands differed vastly from federally sanctioned guardianship that declared adult tribal members “incompetent.” Rather, Osage guardianship applied to taking care of orphans and the elderly without family. Unlike later guardianship laws, the Osage Tribal Council ensured all tribal members would be taken care of fairly and responsibly. Every portion of the Osage Constitution was meant to protect their people, support the tribe’s internal relationships, strengthen their relational web, and affirm their sovereignty.³⁰⁵

³⁰⁴ Osage Const., art. VI, § 4 in Fitzpatrick, 60; Miles, “Osage Agency, Indian Territory, September 12, 1882,” 73; Miles, “Osage Agency, Ind. Ter., September 10, 1880,” 77.

³⁰⁵ The judicial branch of the Osage Nation later became the most criticized portion of their government by the Office of Indian Affairs. Because the OIA typically established the court systems for tribal nations, the Osages courts were not supported by the federal government. Instead of remaining a celebrated part of their sovereignty, the federal government ultimately used the tribal court system as an excuse to dissolve the Osage government in 1900 in preparation for Oklahoma Statehood. The official reasoning related to accusations of corruption, but as chapter four will explore, this only served as a convenient excuse to hobble the actions of a powerful Native Nation so Oklahoma statehood could proceed unimpeded. L. J. Miles, “Report of Osage Agency, Oklahoma, August 27, 1890,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington: GPO, 1890), 190; Chap 3, June 7, 1897, 30 Stat. L. 62, in Barney, 29; Osage Const., art. V, § 6, in Fitzpatrick, 59; Beede, “Osage Agency, Indian Territory, August 15, 1876,” 54; Osage Const., art. V, § 1 in Fitzpatrick, 58; An Act Relating to the Judiciary, art. 1, § 3 in Fitzpatrick, 63; An Act Relating to the Officers of the Osage Nation, art. VII, § 7 in Fitzpatrick, 87.

As described, the 1881 Constitution marked a radical departure from traditional Osage politics. Previously, band members appointed leaders or chiefs for the band, and the chief remained in that position for as long as the leader was capable of serving. Additionally, leadership positions would typically be passed from father to son with the band's consent. If a chief had no sons, then another individual could be appointed to the position. This is how James Bigheart became the chief of the Pawhuska Band when Paw-Hiu-Skah passed away. Due to Paw-Hiu-Skah's prominence in the tribe, James Bigheart often became the primary spokesperson for the tribe starting in 1875 and is credited, along with William Conner, a friend from school, as having drafted the first version of the Osage Constitution. During this process, Bigheart and Conner decided to form two political parties based on commonly espoused opinions towards allotting tribal lands: Progressives and Non-Progressives. Soon after forming the two parties, mixed-blood Osages found their ideas aligned with the Progressives, and full-blood tribal members usually sided with the Non-Progressives, which at times led to heated political debates. Because of James Bigheart's involvement in tribal affairs and authorship of their new constitution, tribal members elected him, as a member of the Full Bloods, to be their first chief during the November 1882 election.³⁰⁶

Tribal members ratified the Osage Constitution on December 31, 1881, and recognized that all bands, clans, and the previous distinction of the "Great and Little Osage" have formed into "one body politic."³⁰⁷ As such, and in an attempt to keep the Osage Nation cohesive, the Constitution included a clause stating if a tribal member left the Osage Nation and adopted the citizenship of another government, "all his rights and privileges as a citizen of this Nation shall cease." This type of decree ensured that tribal members knew and recognized the strength of

³⁰⁶ Orpha B. Russell, "Chief James Bigheart of the Osages," *Chronicles of Oklahoma* 32.4 (1954): 387-388.

³⁰⁷ Osage Const., pre. in Fitzpatrick, 51.

their relational web relied on one another. Another example of the measures taken to reinforce their internal relational web came in the form of a law forbidding Osage tribal citizens from selling their lands or any improvements made on said land. This helped deter white settlers from purchasing property from individual tribal members, thereby infiltrating the Nation and disrupting their government. Additionally, this position demonstrated the Tribal Council's foresight concerning allotment and the potential of Indian Territory becoming a state. As such, this measure resulted in a firm statement against allotment; they would not be pressured to move from their lands.³⁰⁸

The 1870s marked the beginning of a challenging period for the Osages, but by the early 1880s, the Osage Nation had created opportunities for the tribe to thrive. Moving to Indian Territory forced the tribe to reevaluate their relational web in the form of external trading partnerships and alliances. Despite losing access to their most valuable trading commodities and food source, the buffalo, the Osages negotiated new trading relationships and alliances with tribal nations they had been at war with for decades. Additionally, tribal leaders resisted the threat of whites trying to steal their new lands or their livestock, food, and goods and the insidious and relentless assault on their sovereignty via "civilization methods." Instead of bending to the pressure of adjusting to new surroundings and familiar threats, the Osage Nation remained committed to their people and focused their attention on maintaining strong internal relationships among tribal members, and relied on new and former allies through their external relational web. Drafting a new constitution provided a legal document for tribal leaders to assert their sovereignty, their unwillingness to compromise, and their commitment to their people and

³⁰⁸ Osage Const., art. 1, § 2 in Fitzpatrick, 51-52

their allies through their relational web. These principles and their new constitution guided the Osage Nation into the most prosperous period of their history.

Chapter 3

Leasing Economy

The Osage Nation endured numerous hardships during the first decade they resided on their new reservation in Indian Territory. Tribal members utilized differing methods to care for their families as well as ease the transition to a new reservation. At the same time, tribal leaders actively strengthened and reinforced their relational web within the tribe; they extended their web outward to include powerful allies. Tribal leaders successfully negotiated the favorable Drum Creek Treaty allowing the tribe to move under the best possible circumstances as they continued utilizing diplomacy with government employees and other tribes. By 1881, the Osages drafted and implemented a new and more extensive constitution, complete with executive, judicial, and legislative branches of government.

Under the leadership of Chief James Bigheart, the Osage Nation began to steadily expand their relational web to include not just individuals and allies but also new economic ventures. Throughout the 1880s, the Osage Tribal Council agreed to lease their reservation lands to both ranchers and farmers, forming reciprocal relationships with their closest neighbors. These relationships resulted in dramatic wealth development prior to oil development which supported and sustained tribal members who had just endured years with limited financial aid and dwindling resources. The increased wealth strengthened relationships between tribal members solidifying their internal relational web. As the Tribal Council negotiated beneficial leases with neighboring non-Natives, they established positive relationships and alliances that expanded their influence and displayed their sovereignty. The expansion and success of the reciprocal relationships that composed their relational web created during the 1880s continued for generations. By the 1940s, long after most histories of the tribe switch their focus to the topic of

oil, Osages continued to lease grazing lands. They relied on the stability these leases provided as they witnessed dramatic swings in oil prices. By incorporating these new economies, tribal members received much-needed income and made it very clear to lessors, government employees, and potential squatters that the Osage Nation existed as a sovereign entity.

The Osage reservation consisted of close to 1.5 million acres of virtually two distinct landscapes: the eastern wooded valleys and the western prairie lands. Historian Angie Debo described the prairie as a “wild, beautiful country” that appeared to be “a sea of grass...[and] only rarely is the view broken by a distant ranch house, or a few dots of cattle dwarfed to insignificance by the immensity of hills and sky.”¹ Agent Laban Miles described the western two-thirds of the reservation as prairie “where the grass is belly-deep to horses, in which they cannot discern the trail of a pony or cow the past summer.” The Osages’ vast tall and mixed grass prairie land was an important feature for the tribe as they needed a way to feed the thousands of horses in their possession. These horses provided essential transportation for the semi-annual buffalo hunt, but as that phase of their livelihood ended, the unused grasslands did not meet the immediate needs of the tribe. Instead, Agent Miles remarked regretfully that the Osage prairie lands would be “burned this autumn unutilized.”² People who saw the Osages and commented on their situation during that first decade in Indian Territory frequently stated that the tribe had made an unwise purchase. They did not value the land, and some even called it “a poor grave for the tribe.”³ Contemporary authors have continued this thread and implied that

¹ Debo, *Oklahoma: Foot-loose and Fancy Free*, 85.

² Miles, “Osage Agency, August 20, 1885,” 90.

³ File No I. C. #62-5033, 1, Research Notes and Materials: Osage Case, Notes from conversation with Bob Parker, Marshal, 1953, Box 15, File 9, Fred Grove Papers, MS 427, Rio Grande Historical Collections, New Mexico State University Library.

without the aid, encouragement, and potential coercion from agents, the Osage Nation would have ceased to exist. Tribal Council members' willingness to recognize potential new opportunities to help their tribe aided in expanding their external relational web.⁴ Tribal leaders focused their efforts on strengthening their internal relationships to survive the harsh conditions soon after moving to Indian Territory in the 1870s. By the 1880s, the Osage Nation's internal relational web had been fortified, so tribal leaders turned their attention to negotiating external relationships and alliances to benefit the tribe.

While the Osages downsized their herds of horses, cattle ranchers began to look at the Cherokee Outlet, the most western portion of Indian Territory, and by extension, the Osage reservation. Ranchers wanted to drive their cattle through Osage lands as they made their way to the Kansas railroads to transport their stock to feedlots and slaughterhouses. Due to the market practice of selling cattle based primarily on their weight, many wondered if the Osage lands could provide a place to graze their herds, leading to healthier cattle and an increase in the cattlemen's profits. The famed cattle drives on the plains began before the Civil War, but after the war ended, the number of ranchers and cattle moving along the cattle trails dramatically increased. It is estimated that between 1866 and 1885, ranchers drove over six million head of cattle through Oklahoma alone, with a typical herd size of around 2,500 head.⁵

Ranchers participating in cattle drives took several routes north from Texas, one being the legendary Chisholm Trail. Another popular route, the West Shawnee Trail, offered access to the rich grass lands of the Cherokee Outlet. This trail went north from Boggy Depot to sixteen

⁴ Smith, 158; McReynolds, 259.

⁵ The year with the largest number of cattle moving north along the overland trails was in 1871 when ranchers herded around 600,000 head of cattle. Edwin C. McReynolds, *Oklahoma: A History of the Sooner State* (Norman, University of Oklahoma Press, 1954), 259; Burrill, "Grassland Empires," 48; McReynolds, 253, 258-259.

and a half miles west of the Kaw Reservation's western border, now known as Ponca City, Oklahoma. A spur trail, called the Osage Trail, led east from the Kaw Reservation to Pawhuska and then north to the railroad in Elgin, Kansas. The Osages, while attempting to maintain their buffalo hunts and resist white settlers from squatting on their lands or stealing their horses, watched as ranchers drove thousands of cattle through western Oklahoma. During the summer of 1875, cattlemen grazed multiple herds on the prairie just west of the Osage reservation, which caused some conflict with tribal members who grazed their horses in the same area. While this incident inconvenienced tribal members, they soon faced ranchers who allowed their cattle to graze within the reservation's boundaries freely.⁶

Prior to the 1870s and the many efforts utilized to protect northern cattle from the Texas cattle fever, such as quarantines and dipping stations, ranchers could sell their herds straight from the trail to cattlemen in Nebraska, the Dakotas, Wyoming, and Montana.⁷ There, cattle could gain weight and then be sold for slaughter at a higher profit. Ranchers could also ship their cattle directly to the feedlots or slaughterhouses in Cincinnati, East St. Louis, or Chicago. However, both options required ranchers to sell their cattle at their lowest weight since they had just traveled hundreds of miles across the plains. Many believed that if they drove their cattle to the tall grass prairie region in and around the Osage reservation and allowed their cattle to graze for

⁶ McReynolds, 257, 259-260; Gary Kraisinger, telephone conversation with the author, January 10, 2019; Gibson, "Osage Agency, Indian Territory, September 1, 1875," 280.

⁷ Texas tick fever, also called bovine babesiosis, is a protozoan disease that primarily affects cattle, but also can be found in deer populations. The disease progresses quickly resulting in the destruction of the animal's red blood cells, which leads to anemia, fever, and death. Since the discovery of the disease states and later the federal government issued quarantine protocols to prevent the disease from infecting naïve northern cattle herds. Texas A&M Agrilife Extension "Cattle Fever Tick," <https://agriflifeextension.tamu.edu/solutions/cattle-fever-tick/#:~:text=Cattle%20Fever%20Tick.%20The%20technical%20name%20for%20Texas,cells%20that%20results%20in%20anemia%2C%20fever%20and%20death>. On Texas tick fever see Claire Strom's monograph *Making Catfish Bait out Of Government Boys: The Fight Against Cattle Ticks and the Transformation of the Yeoman South* (Athens: University of Georgia Press, 2010) and Tamara Miner Haygood's "Cows, Ticks, and Disease: A Medical Interpretation of the Southern Cattle Industry," *The Journal of Southern History* 52.4 (November, 1986): 551-564.

a time prior to finishing the route to Kansas, their profits would increase exponentially.⁸ Lewis Downing, Principal Chief of the Cherokee Nation, complained in the late 1860s that “large herds” moved through the Cherokee Strip anywhere “from three to five miles per day, and zigzag all over the country, so as to take in their course the finest grazing; so that, while only claiming to pass through, they actually spend the greater portion of the summer and autumn in grazing over the Indian country.”⁹ By taking their time and allowing leisurely grazing, the cattle typically gained a significant amount of weight, especially if ranchers decided to stay in the area during the winter.¹⁰

The Cherokee Nation seemed to bear the brunt of ranchers using their remote lands in the Cherokee Strip for free; however, the Osage Nation started to see additional ranchers and hundreds more cattle enter their own reservation. Due to the steadily increasing yearly numbers of cattle moving along the cattle trails, the Interior Department employees had a challenging time monitoring and expelling ranchers and their herds from Native lands. Apart from these difficulties, Samuel M. Brosius, the Washington Agent for the Indian Rights Association, emphatically stated that when a federal employee allowed cattle to be illegally pastured on Osage lands, then there “is ample proof, from a business standpoint, of his [the agent’s] unfitness, besides savoring strongly of dishonesty and fraud.” While this might be true, agents had an especially difficult time distinguishing between the cattle that had been provided by ranchers to meet the needs of the agency who legally grazed on the reservation and the cattle that might be in the area illegally.¹¹

⁸ McReynolds, 253; Wilson, 47.

⁹ Burrill, “Grassland Empires,” 51.

¹⁰ McReynolds, 259-260; 41st Congress, 2nd Session, Senate Report, No. 225, Series 1409, 1869, 2.

¹¹ Burrill, “Grassland Empires,” 65-66, 49-51, 54; Samuel M. Brosius, “Impressions from a Summer’s Tour Among the Indians,” in *Report of the Eighteenth Annual Lake Mohonk Conference on the Indian and Other Dependent Peoples*, 1900, 124; McReynolds, 260.

The Osages had no such difficulty determining what to do about the cattle grazing on their lands. Many took advantage of the agency cattle and slaughtered a beef whenever they needed food, regardless of when the agency provided rations or annuity payments. This course of action became particularly popular during the early 1870s when the Osages experienced severe food and income shortages. As tribal members looked for alternative income sources to replace their previously lucrative buffalo hunting, some began to see the exploitation of cattle drives as a viable option. During the summer of 1875, at the height of the seasonal cattle drives, three Osage families left the reservation and headed west to the Chisolm Trail, which crossed through the Cherokee Outlet. Since the quality of buffalo hunts no longer necessitated the risk and expense of traveling hundreds of miles away from home, these families decided to temporarily live along the Chisolm Trail and earn money by collecting taxes for each head of cattle ranchers drove through the area. As Agent Gibson explained, the families “obtained a few dollars in that way, which they expended with a trader near by [sic] for flour, &c.”¹² They also obtained some cattle to supplement their food supply. Cattle ranchers expressed their displeasure with the taxes being forced upon them and frequently complained to officials. Soldiers came to the area to find the Osage families responsible and attempted to return them to the reservation. A scuffle occurred, and in the process, one unidentified Osage elder died as a result. This unfortunate event forced Osage tribal leaders to reassess how they handled their relationships with ranchers and cattle.¹³

Having seen and experienced the violent results associated with stealing and butchering cattle as well as trying to exact taxes on land other than on their reservation, the Osage Nation

¹² Gibson, “Osage Agency, Indian Territory, September 1, 1875,” 280.

¹³ Beede, “Osage Agency, Indian Territory, August 15, 1876,” 54-55; Gibson, “Osage Agency, Indian Territory, No. 22, September 1, 1872,” 246; Miles, “Osage Agency, Ind. Ter., September 10, 1880,” 77.

began to focus their efforts on expanding their external relational web to include ranchers. The Osages reasoned that if they crafted relationships with the ranchers rather than resisting them, then their encounters would not only be safer than if individuals tried to strike their own deals, but it would also provide a mutually beneficial financial relationship for the tribe and the cattlemen. However, the tribe's first attempt did not go particularly well. The Osages decided to charge a fee for the cattle driven through their reservation, but more often than not, cattlemen simply ignored these new rules. Some ranchers and cattle hands began to ride with a "sufficient force of armed men for their protection" as a form of intimidation, avoid fee collections, and to deter retaliation by Osages. Regardless of strategy, the Osages reached an impasse with cattle ranchers that did not change until the 1880s.¹⁴

Some mixed-blood Osages attempted some small-scale ranching when they first moved to Indian Territory but frequently were not successful since they had few animals and too quickly had to butcher them due to the lack of provisions from the federal government. Starting in 1825, every treaty signed by the Osage Nation stipulated the federal government would provide a significant number of livestock and fowl. However, livestock had only sporadically been provided to tribal members. In 1881, the Osage Agency finally received the remainder of the livestock that the Osages had been promised during the 1839 treaty. When the cattle arrived, agency employees gave each family three to five head of cattle depending on the number of family members. The cattle provided some alleviation for the starving Osages, and federal employees hoped tribal members would raise their own livestock and establish ranching enterprises, but this did not occur.¹⁵

¹⁴ Hoag, "Central Superintendency, No. 93, Lawrence, Kansas, October 8, 1870," 258.

¹⁵ Callahan, 13; Miles, "Osage Agency, Ind. T., September 21, 1881," 86.

As the Osages drafted their constitution and held elections for newly created roles for tribal officials, the cattle drives had recovered from the losses incurred during the Civil War, and business boomed in the early 1880s. Witnessing the steady increase of the cattle industry, tribal leaders began to actively cultivate relationships with cattlemen once more. On September 29, 1883, the Osage Tribal Council approved a measure that allowed the tribe to issue the first “blanket grazing lease” to white cattlemen. Agent Miles recognized the Osages decision and defended it to the Office of Indian Affairs by stating the tribe realized “they were being continually imposed upon by stockmen allowing their cattle to drift over on to their reservation, and the difficulty of collecting taxes for the same, determined to make some leases along their borders of lands that were not occupied, both as a means of securing a great income and as a protection to the balance of their reservation...”¹⁶ The Tribal Council’s initiation of cattle leasing did not provide access to their entire reservation rather just tracts that rested along the western borders where no tribal members resided. Tribal leaders’ decisive actions allowed for an immediate expansion of their external relational web without direct interference with the daily activities of tribal members.¹⁷

Cattlemen who frequented Indian Territory with their herds, as well as neighboring whites, acted quickly on the opportunity to lease lands from the Osages. Those residing near the Osage reservation saw leasing as a chance to claim additional acreage without having to fight with the Osages over who had rightful ownership of the land. Some, like the local trader John Florer, purchased a lease as another way to assert his involvement with the tribe. Due to a federal law stating no one, other than tribal members or federal employees, could legally live

¹⁶ L. J. Miles, “Osage Agency, Indian Territory, September 1, 1884,” in the *Annual Reports of the Commissioner of Indian Affairs*, Washington, D.C.: GPO, 1884, 83.

¹⁷ Burrill, “Grassland Empires,” 54, 74; Baird, 66.

within the bounds of the Osage Reservation, many saw leasing as an opportunity to gain a foothold within Indian Territory. Additionally, those interested in leasing Osage lands found the three to four cent per acre price point exceedingly reasonable. The average term for a grazing lease consisted of ten years unless the lessee did not submit timely payment. Cattlemen jumped at the opportunity since the Osage Nation was the first Tribal Nation in America to lease their lands in this manner. The Osage Council generously offered leases to cattlemen and discontinued the expensive taxes in order to cultivate positive relationships with external parties. As a result, Osages gained much-needed allies, money, and respect among area whites.¹⁸

After years of not having the supplies or the support they needed from the federal government, the Osage Nation realized grazing leases could positively affect their citizens. Even though cattlemen thought the leasing fee reasonable, tribal leaders saw that money as a godsend for their people. When the Osages issued the first round of grazing leases in 1883, they leased a total of 350,000 acres from the western side of their reservation. That equaled a \$42,000 net profit for the tribe each year just from “grass money,” as they termed the profits from grazing leases. The windfall from leasing seldom used lands initially helped the Osages survive, but soon tribal members began to thrive. Tribal leaders understood how and when to utilize their relational web to benefit the tribe. After fighting with and trying different methods of negotiations, the Osages created a leasing economy with cattlemen that allowed the tribe to extend their relational web to include additional allies through mutually beneficial arrangements. By creating valuable new alliances and crafting new economic opportunities, the Tribal Council

¹⁸ Burrill, “Grassland Empires,” 73, 75; Miles, “Osage Agency, Indian Territory, September 1, 1884,” 83.

strengthened their internal relationships with tribal members while also extending their influence throughout the region.¹⁹

Despite the beneficial grazing leases, the Osage Nation faced challenges in the form of defaults and graft from ranchers. In 1894, the Tribal Council approved thirty-four grazing leases for a period of five years, but by the following year, the council canceled fifteen of those leases due to non-payment.²⁰ The majority of those canceled were held by “Osage citizens by marriage and half-breed Indians” rather than the out-of-state cattle ranchers who leased the largest selections of land.²¹ Regardless of who held the leases, losing approximately one-third of viable leases led to a loss of \$35,000 for the tribe, which strained their financial state for the year. Even with the pressure of defaulted leases and attempts to graze cattle illegally on Osage lands, the records do not reveal any signs that the Osage Nation saw these difficulties as anything more than minor inconveniences along the path of self-determination. Much like the black spider, tribal leaders waited patiently for people to come to them and manifest the fruits of their labor.²²

The Osage Tribal Council took measures to ensure they received a beneficial arrangement with lessees. When the Osages first started to issue grazing leases, many stockmen tried to evade the new leasing system by temporarily selling their cattle to tribal members to keep on their own claims. Once the cattle were fattened for market, the cattlemen purchased the cattle and paid the tribal member a fee for his cooperation. However, the Tribal Council quickly enacted legislation to eliminate questionable yet legal maneuvering around their laws. In “An

¹⁹ “Osage Agency, Indian Territory, September 1, 1884,” 83; Burrill, “Grassland Empires,” 77; Chap. 1402, April 21, 1904, 33 Stat. L. 189 in Barney, 33.

²⁰ H. B. Freeman, “Report of Osage Agency, Oklahoma, July 31, 1895,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1895), 256.

²¹ H. B. Freeman, “Report of Osage Agency, Pawhuska, Oklahoma, October 2, 1896,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1896), 260-261.

²² Shirley Glenn, *West of Hell's Fringe: Crime, Criminals, and the Federal Peace Officer in Oklahoma Territory, 1889-1907* (Norman: University of Oklahoma Press, 1978), 418.

Act relating to Southern Stock” passed in 1884, the Tribal Council required pre-approval of any purchases of “Texas, Southern or other foreign cattle” by a tribal member if it would number over 500 head of cattle. Once Tribal Council members approved the purchase, the owner paid five cents per head for every month the cattle stayed on the reservation. This rule did not apply to the natural growth of a tribal member’s own herd. Instead, its primary aim was to discourage tribal members from aiding ranchers and cattlemen from evading the laws of the Osage Nation. This law emphatically stated and demonstrated to tribal members, ranchers, and even the Office of Indian Affairs, the Osages were firmly in control of their leasing economy.²³

Despite firm tribal laws governing cattle grazing, a new form of fraud permeated the Osage Nation in the 1910s. Instead of circumnavigating the leasing system, some white lessees worked within the Osages’ leasing economy for their own personal gain. As Superintendent Hugh Pitzer reported in the summer of 1911, some “small speculators” started leasing small tracts of land directly from individual Osages rather than seeking approval through the Osage Agency.²⁴ Once these individuals procured the leases in question, they then approached the cattlemen who had grazing leases for the same land and demanded “a premium” for the use of “their” lease. Pitzer stated that “nine cases out of ten the cattlemen have to submit in order to protect themselves, for the reason that they need every acre of grass within their pastures, and very frequently the land involved contains the only available water-hole.” While technically legal due to a loophole that allowed individual Osages to make their own leasing agreements

²³ An Act Relating to Southern Stock, Article XV in Fitzpatrick, 97-98.

²⁴ The title of the Osage Agent changed on December 5, 1908 from “Agent” to “Superintendent.” Their duties did not change and the Superintendent remained the point of contact between the Office of Indian Affairs and the tribal nation. Osage Tribal Council, *Osage Indians Semi-Centennial Celebration*; Osage Tribal Council, *Osage Indian Tribe Centennial Celebration, 1872-1972*; *Annual Reports of the Commissioner of Indian Affairs*.

without involving the Osage Agency, Pitzer vowed to end this practice due to the immense confusion between lessee and lessor, not to mention the agency employees.²⁵

Pitzer also realized that for the Osages' leasing economy to thrive, firm federal rules and systems needed to be implemented. Without such, the Osages would become vulnerable to those seeking profits over all else. In the case of La Motte & Company, George D. La Motte relied on his experience as a former clerk at the Osage Agency to start his own real estate, loan, and insurance business. He and his wife, Anna, utilized their knowledge of the Osages' leasing economy and the office procedures of the agency to help secure leases for their clients. This might seem like a benign way to inform their growing business; however, in one notable example, the La Mottes "entertained Grace Bigheart and one or two other Indians preceding midnight of August 1st, 1911, in order that they might procure their signatures to certain leases." Some area whites who desperately wanted access to Osage lands used alcohol to coerce tribal members to sign paperwork approving illegal leases. Leases obtained in this manner existed outside the purview of the Osage Agency and the Osage Tribal Council, leaving tribal members vulnerable to additional theft and criminal activities. This type of behavior is typically investigated in relation to the oil boom of the early 1900s, but the Osages had experienced this fraud previously due to their prosperous leasing economy. Many of these instances were quickly revealed, but the illegal actions of some threatened to undermine the confidence of leases with other area whites.²⁶

²⁵ C. F. Hauke to Hugh Pitzer, July 10, 1911, Box 7, RG 75, Records of the Osage Agency, Records of the Land and Realty Division, Records Relating to Permits and Leases, Leases 1890-1910, [Hereafter referred to as Land and Realty Division], NARA-FW; Hugh Pitzer to Commissioner of Indian Affairs, October 3, 1911, Box 7, RG 75, Land and Realty Division, NARA-FW.

²⁶ Hugh Pitzer to Commissioner of Indian Affairs, October 11, 1911, Box 7, RG 75, Land and Realty Division, NARA-FW.

This practice of speculation, or “promiscuous leasing,” as Pitzer termed it, is demonstrated by the case of J. C. Stribling, a white cattleman. Stribling drafted a total of fifty-four leases for access to a total of 17,296.85 acres at a yearly sum of \$8,165.10. Pitzer sent the Stribling leases to the Commissioner with the request that the leases be disapproved due to the likelihood the cattleman would use the land “for speculative purposes.” In addition to receiving word from an unknown party that Stribling planned to sub-lease the acreage, Pitzer mapped the fifty-four leases and found that the land consisted of scattered acreage across twenty-one townships. It was inconceivable that any cattlemen would be able to utilize land located in such a scatter-shot manner. Pitzer’s suspicions were confirmed after meeting with Stribling to explain the leasing policy. At the end of the meeting, Mr. Stribling rose from his chair, stating that the Superintendent ““was all bluff” and that it would be impossible ... to keep him from getting his leases approved.” The Commissioner, in fact, disapproved the leases in question, yet many others attempted similar actions.²⁷

Despite attempts to erode the stability of their leasing economy, the Osage Tribal Council consistently exercised their sovereign power to ensure grazing leases benefited the tribal community as a whole by setting the terms of all leases and ensuring all cattlemen had proper documentation. The Tribal Council understood that any actions they took regarding governance and revenue generation should beneficially affect all tribal members. Leasing funds served a valuable purpose, but another way leasing benefited tribal members was through the construction of fences. The Osages faced numerous squatters trying to settle on their reservation, both in Kansas and in Indian Territory, but a more insidious way neighboring whites attempted to gain access to Osage lands by allowing cattle to roam freely on tribal land. The Tribal Council named

²⁷ Ibid.; Hugh Pitzer to Commissioner of Indian Affairs, January 10, 1912, Box 7, RG 75, Land and Realty Division, NARA-FW.

these actions as “promiscuous grazing” and equated it to outright theft from the tribe. To combat “promiscuous grazing,” the Tribal Council required all lessees to fence the entire area they leased. This prevented any unauthorized livestock from entering Osage lands, thereby preventing additional legal conflicts and potentially curtailing theft of Native livestock. Osage agency employees supported this initiative by purchasing enough wire to fence the remainder of the Kaw reservation and the western parts of the Osage reservation. Once completed, an additional sixty miles of fencing had been erected to safeguard the tribe’s borders and support their grazing lease initiative.²⁸

The Osages devised a plan to maintain their people, assert their sovereignty, and strengthen their tribe and relational web through grazing leases, yet the federal government had other ideas. Osage Agent Laban Miles sought approval from the Office of Indian Affairs in December of 1882 for the Osages to lease their western acreage for grazing purposes. The Office of Indian Affairs approved the request as long as the Osages only leased the northern parts of their western lands since this land was the farthest removed from tribal members' villages. According to the *Federal Indian Law Handbook*, since the Osages sought the approval of the Secretary of the Interior, they could lease their lands for grazing as long as the lease did not extend past ten years.²⁹ However, in the *Regulations of the Indian Department*, rule number 532 stated, “Indians have no right to grant, lease, or otherwise convey the lands occupied by them for any purpose whatever unless such conveyance be made in accordance with treaty or with law.”³⁰ Because the laws about cattle and grazing leases across Indian Territory were contradictory in

²⁸ Burrill, “Grassland Empires,” 75; Miles, “Osage Agency, Indian Territory, September 1, 1884,” 83.

²⁹ This statute is restated in the *Regulations of the Indian Department*, No. 529, just three sections before it states Native Nations have no rights to establish grazing leases. Office of Indian Affairs, *Regulations of the Indian Department* (Washington: GPO, 1884), 100. Callahan, 13; United States Department of the Interior, *Federal Indian Law Handbook* (Washington: GPO, 1958), 59; Smith, 157.

³⁰ Office of Indian Affairs, *Regulations of the Indian Department*, 100.

nature and essentially unenforceable, the Osage Nation asserted their sovereignty by negotiating their own grazing leases. Due to the success of the leases, Agent James I. David recommended expanding the grazing leases in 1886 since he argued it would continue to create a “great profit to this people.”³¹

As the Osage Tribal Council cultivated a leasing economy with cattlemen, the Secretary of Interior, Henry M. Teller, asked the War Department to use military force to push all of the cattle and cattle ranchers out of Indian Territory. The War Department refused this request and argued cattle drives did not require military attention. Since the 1880s saw the height of cattle drives through Indian Territory, Teller realized it was likely impossible to truly stop all grazing leases from occurring between cattlemen and Native Nations. Rather than clarify the exact nature of the laws regarding grazing leases, Secretary Teller decided to table the issue indefinitely through what some historians later termed the “absurd policy.” Teller stated tribes could not lease their lands because Congress had not explicitly allowed them to do so; however, he agreed to allow the practice to continue as long as the Indian lessors were satisfied with the agreement they made with cattlemen. The Osages continued to draft their own policies that best benefitted themselves and their Tribal Nation for the remainder of the 1880s.³²

³¹ Burrill, “Grassland Empires,” 53, 78-79.

³² The “absurd policy” did not occur simply because of the Osages desire and success in drafting and executing grazing leases. Instead, due to the success of the Osage Nation, other tribal nations, including the Cherokees and Cheyenne and Arapaho Nations, began their own leasing economies. In fact, the Office of Indian Affairs approved seven grazing leases in the Cherokee Strip for the Cherokee Nation in 1883. However, by the time other tribes attempted to participate in this economic venture, the Office of Indian Affairs began to question the arrangements. This became particularly true in the spring of 1883 when the Office of Indian Affairs learned of a “Chicago scheme” which included a “party of Chicago capitalists” who attempted to lease 2.4 million acres of land from the Cheyenne and Arapaho reservation. Miner, *The Corporation and the Indian*, 127; 48th Congress, 1st Session, Senate Executive Doc. NO. 54, Ser. 2165, 1883, 108; Burrill, “Grassland Empires,” 54-56; 48th Congress, 1st Session, Senate Executive Doc. NO. 54, Ser. 2165, 1883, 99; Robert M. Burrill, “The Establishment of Ranching on the Osage Indian Reservation,” *Geographical Review* 62.4 (1972), 528-529; “Changes Made in Osage Indian Grazing Leases,” *Osage County News*, September 4, 1936.

However, by 1890, the issue of legality rose again, but this time under the direction of then Secretary of Interior, John W. Noble. He stated all grazing leases within Indian Territory were effectively terminated, and all cattle grazing on Osage lands needed to be removed immediately. Laban Miles, who had since reassumed his role as Indian Agent, vehemently protested directly to the Commissioner of Indian Affairs, Thomas J. Morgan. The Osage Tribal Council elected members of the tribe to form a delegation to Washington, D. C. to appeal on the tribe's behalf. Fortunately, the continued efforts of Agent Miles and the physical presence of the Osage delegation swayed Commissioner Morgan, who agreed to push the canceling of grazing leases to a later date. Even more significantly, Congress reversed Secretary Noble's decision in 1891 and allowed the Osages to continue their practice of grazing leases.³³

While Secretary Noble's attempts at controlling tribal affairs and influencing who had access to tribal lands continued to be an issue for tribes residing on government reservations within Indian Territory, the Osage Nation successfully evaded this heavy-handed oversight. Congress enacted a law on February 28, 1891, stating that because the Osages had "bought and paid for" their tribal lands, they did not need any outside authority to approve their actions. Instead, farming and grazing leases were approved solely "by authority of the council speaking for such Indians," with some oversight by their local Indian Agent and final approval provided by the Secretary of Interior.³⁴ To further strengthen Osage sovereignty, the statute also stated that if a Tribal Nation resided on a reservation created by executive order, they could not participate in leasing. However, since the Osages lived on a reservation drafted by treaty, they had further credence for legitimately operating their leasing arrangements. This statute did reduce the limit of grazing leases from ten years to five, but this act proved to be a monumental

³³ Burrill, "Grassland Empires," 79-81.

³⁴ 26 Stat. L., 794, February 28, 1891.

win for Osage sovereignty. Osage leaders' foresight during the Drum Creak Treaty negotiations allowed the tribe to develop their economic interests in various forms, which led the Tribal Nation to amass a vast fortune twenty years prior to oil development.³⁵

After the Secretary of Interior conceded and allowed the Osages to control their leasing interests, tribal leaders utilized the Tribal Council, constitution, and judicial system to successfully manage their affairs and secure peace among their neighbors and allies without significant interference from the agency. They also had the support of the Office of Indian Affairs to "revoke these licenses [grazing leases] whenever they wished and for whatever reason they might choose."³⁶ This policy allowed the Osages tremendous flexibility and oversight, but it provided no protections for those who leased from the Nation. However, this did not deter many cattle ranchers as they believed the benefits continued to outweigh the risks. A growing number of cattlemen approached the Tribal Council to lease land not used for homesteads, farming, or any other purposes by tribal members for a period of five years at a time.³⁷

During the early days of cattle drives, Texas cattlemen typically drove their cattle along the East Shawnee Trail as that proved to be the quickest route to the nearest railroad station located in Baxter Springs, Kansas. This route meant they could altogether bypass the Osages. However, in 1887, the Santa Fe Railroad constructed a station at Elgin, Kansas, just north of the Osage reservation. This new location shortened the route cattle had to travel from Texas and made the lush prairie grasses of the Osage Reservation even more tempting for ranchers. Cattlemen quickly realized that if they wanted to profit from cattle drives, they needed the

³⁵ Schmeckebier, 178; "Regulations to be observed in the execution of leases of the Allotment of Osage Indians in Oklahoma," October 25, 1910, Box 7, RG 75, Land and Realty Division, NARA-FW.

³⁶ Miles, "Osage Agency, Ind. T., August 11, 1883," 74; Burrill, "Grassland Empires," 55.

³⁷ L. J. Miles, "Report of Osage Agency, Oklahoma, August 30, 1892," in the *Annual Reports of the Commissioner of Indian Affairs* (Washington: GPO, 1892), 391; Chap 383, February 28, 1891, 26 Stat. L. 794 in Barney, 28.

cooperation of the Osages. They soon found that even though the prairie around the Osage reservation was an incredible resource, the Osages had fenced so much of their lands that cattlemen without grazing leases and legal access to the reservation could not consistently locate enough grass to support their cattle. In fact, some cattlemen without grazing leases reported their cattle either did not gain weight as expected or, in extreme cases, lost weight due to inadequate resources. This forced many cattlemen to procure leases from the Osages out of necessity, thereby increasing the strength of the tribe's leasing economy.³⁸

An additional circumstance that benefited the Osages came in the form of the Texas cattle tick fever and the resulting quarantine to prevent the deadly outbreak from infecting northern, more susceptible cattle herds. Due to the number of stock traveling through Indian Territory to reach national markets, northern states such as Kansas and Missouri began seeing signs of the disease in the 1850s. The number of infected cattle increased throughout the 1860s and 1870s due to cattlemen who grazed their cattle near northern rail lines to fatten their stock before sending them to slaughterhouses. As the effects of the disease became apparent, individual states enacted legislation banning Texas cattle from crossing into their states. Kansas enacted its first quarantine laws in 1867 but strengthened them in 1885 when the state legislature enacted a quarantine line along the 34th parallel. The only exception to this law came during winter, specifically between December 2nd and February 28th, when the diseased ticks had likely died from the cold weather. Only then could ranchers transport their cattle across the quarantine line to ship their cattle via train to slaughterhouses.³⁹

³⁸ Burrill, "Grassland Empires," 48, 65; Smith, 160.

³⁹ Cecil Kirk Hutson, "Texas Fever in Kansas, 1866-1930," *Agricultural History* 68.1 (Winter, 1994), 77; Burrill, "Grassland Empires," 48, 65.

The federal government finally declared its own quarantine line in 1892, separating areas known to contain infected cattle from uninfected areas. The federal quarantine line proved much stricter than any state mandate since it banned all southern cattle from stepping foot on northern soil. Instead, cattle could only be shipped by train or boat directly to slaughterhouses between November 16th and January 14th. While cattle ranchers had always been interested in fattening their herds on the prairie grasses around and on the Osage reservation, the outbreak of cattle tick fever and the resulting quarantine measures forced ranchers to rely solely on the Osages as they waited for the approved window when they could transport their stock north. Coupled with the confusing laws regulating grazing leases for all tribal nations within Indian Territory, the Osage Nation's clear title to their lands looked even more appealing to southern stockmen who rapidly faced limited options to keep their enterprise profitable. The Osages found themselves perfectly positioned as a holding area for southern livestock, and they gladly accepted these new business partners into their relational web.⁴⁰

As rail transport became more pervasive, some Texas cattlemen found it more cost-effective to ship their cattle via train to Indian Territory. Due to the limited rail stations within Indian Territory, cattlemen with grazing leases from the Osage shipped their cattle to Elgin, Kansas. The quarantine laws made this a tricky endeavor, but those in the cattle industry built dipping vats (meant to kill the ticks, but at times killed the cattle themselves) going from the railcars directly to the Kansas-Indian Territory border. In order to avoid the federal quarantine law that stated southern cattle could not step foot north of the border, stockmen built ramps, boardwalks, and fenced chutes that led cattle from the railcars, swam them through dipping vats, and then walked across to the Osage reservation without setting a hoof on Kansas soil. On a

⁴⁰ Holly Hope, *Dip That Tick: Texas Tick Fever Eradication in Arkansas, 1907-1943* (Little Rock: Arkansas Historic Preservation Program, 2005), 8; Strom, 53.

record-breaking day for the Elgin rail station, cattlemen unloaded forty-three train loads of cattle onto Osage lands using this method.⁴¹

Despite the hassle of working around quarantine lines, Texas cattle ranchers “eagerly sought” grazing leases from the Osage Nation.⁴² By 1900, the Osages leased 184 separate pastures to cattlemen. Osage Agent William Pollock stated the Osage reservation “is an ideal grazing country” because “grass grows luxuriantly everywhere.” As a result, “thousands of cattle are annually fattened thereon for market, the Indians deriving considerable revenue from the money paid for pastures.”⁴³ To be clear, not all Osage land could be successfully leased for grazing. Cattlemen quickly realized the valleys and timbered areas in the eastern parts of the reservation simply did not have enough grass to support a large number of cattle. Additionally, ranchers reported the flies in the creek bottoms “are more troublesome” and a nuisance for themselves as well as the cattle. Even if they had the option to graze their cattle further north on the prairies of Kansas, Nebraska, or other western states, many cattlemen would have continued to pursue grazing leases from the Osages.⁴⁴ Ranchers reported that the Osage “grasses were taller and richer” than others and the winters were milder than those in more northern states.⁴⁵ That meant the majority of ranchers overwintered their cattle on the Osage leases so they could boost their weight from the nutrient-rich spring grasses before being sold. However, this could be a risky venture due to unpredictable winter weather and the potential of theft of their herds by Native groups.⁴⁶

⁴¹ Smith, 160; Burrill, “Grassland Empires,” 51, 66.

⁴² Oscar A. Mitscher, “Report of Osage Agency, Pawhuska, Oklahoma, August 21, 1900,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington: GPO, 1900), 337.

⁴³ William J. Pollock, “Report of Osage Agency, Pawhuska, Oklahoma, August 16, 1889,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington: GPO, 1899), 294.

⁴⁴ H. B. Freeman, “Report of Osage Agency, Oklahoma, August 18, 1894,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington: GPO, 1894), 241.

⁴⁵ Smith, 157.

⁴⁶ Burrill, “Grassland Empires,” 51-52.

Even though cattlemen understood the winters in Indian Territory were significantly milder than more northern environs, they could not discount winter weather altogether. In fact, a particularly harsh winter from 1885 to 1886 came with blizzards that swept through the plains during this period, leading to hardship and even bankruptcy for many cattlemen. One cattle rancher named Sam Jent recalled the fate of a fellow rancher in the area who started the winter with 15,000 head of cattle. By the spring thaw, he had sixty-two surviving cows from his herd. Although many ranchers lost money and property due to the blizzard conditions, the cattle industry recovered by 1888 when the Osage Tribal Council renewed grazing leases for another five years at 3.5 cents per acre.⁴⁷

Those who found success leasing grazing lands from the Osages typically came from large corporate cattle enterprises and leased thousands of acres at a time. They could afford to pay leasing fees, hire hands to tend to the cattle for long periods of time away from the ranch, and most importantly, these businessmen could survive inclement weather and poor economic conditions far better than smaller cattlemen. The Chapman and Barnard ranch on the Osage reservation consistently leased around 88,000 acres of land, part of which has in recent years been transformed into the Tallgrass Prairie Reserve. Another Texas rancher, Tom Wagoner, leased around 60,000 acres from the Osages and worked 15,000 head of cattle on the land.⁴⁸

After the federal government established the federal quarantine line, more ranchers clamored to acquire their own grazing leases from the Osages. The Osage Tribal Council gave preference to those who had leased acreage from the tribe previously but also opened additional

⁴⁷ On the blizzard conditions during the 1885-1886 winter, see David L. Wheeler's article "The Blizzard of 1886 and Its Effect on the Range Cattle Industry in the Southern Plains," *The Southwestern Historical Quarterly* 94.3 (January 1991): 415-434. Burrill, "Grassland Empires," 77-78.

⁴⁸ On cattle ranches becoming more like corporate entities during the late nineteenth century, see David Iglar, *Industrial Cowboys: Miller & Lux and the Transformation of the Far West, 1850-1920* (Berkeley: University of California, 2001). Smith, 157, 167; Glasscock, 127; Baird, 66.

land for grazing. However, some of this newly available land had “poor quality of grass” or were utterly cut off from access to water sources, making the land worthless to ranchers. These leases were quickly voided and returned to the tribe, but before any money would be returned to ranchers, they had to be approved by the United States District Attorney. This was an annoyance to the ranchers, but records indicate this process was simply a formality that protected the tribe from future legal action being taken by ranchers seeking additional compensation. The Osages’ long history of trading and making financial arrangements with those outside of the tribe placed them in a position where they could negotiate contracts that would benefit their people.⁴⁹

Although the Osages saw and capitalized on the economic opportunity that entered their relational web, many outside observers from the eastern states expressed their concern. Agent Miles reported that some “fanatics” had written to newspapers stating the “poor Indian was being crowded off from his range,” and their horses were dying because of the overgrazing by cattle. However, Miles clarified in his annual report that no such thing had occurred on the Osage Reservation.⁵⁰ Other eastern reformers argued that because large tracts of land were held in the hands of a select few cattlemen, the tribe could not possibly profit from the leases. In addition, Samuel Brosius, a member of the Indian Rights Association, reported to the Annual Lake Mohonk Conference that those who leased lands from the Osages had no “interest in tribal rights, while many others have but a slender thread upon which to base an interest therein.” According to Brosius and other “Friends of the Indian,” the grazing lease situation could not be a lasting and sustainable source of beneficial income for the tribe. They feared outsiders would take advantage of the Osages and erode the tribe’s ability to oversee their affairs. While this paternalistic display of concern may seem genuine, eastern reformers had very little

⁴⁹ Freeman, “Report of Osage Agency, Oklahoma, July 31, 1895,” 256.

⁵⁰ Miles, “Osage Agency, August 20, 1885,” 90.

understanding of the Osages' insistence and adherence to their tribal sovereignty and commitment to their people, nor did they desire to learn more about Native peoples. They focused on pushing their assimilation and “civilizing” agenda on all Native groups regardless of their situation. The Osage Tribal Council utilized negotiation and diplomacy through grazing lease contracts to maintain control of their land and resources as well as benefit their people in the present and future.⁵¹

Despite the concerns from outside observers, the Osages soon reaped the benefits of their economic venture with grazing leases. The Tribal Council called the first grazing leases issued “blanket leases,” which included anywhere between 45,000 to 80,000 acres of land for each lease. By 1883, the Osage Nation had approved the lease of 380,000 acres for grazing purposes. The proceeds from grazing leases sufficiently covered the Osages' daily expenses, and as a result, the federal government stopped supplying the once life-saving rations to the tribe. At the same time, the Osages' interest payments from the sale of their lands in Kansas increased to forty dollars per person quarterly. With another decade of grazing leases, the Osages received a total of \$43,162 annually from cattlemen alone. Due to the Osage's willingness to extend their relational web to include cattlemen coming through the area rather than push back and resist their advances, the Osage Nation stabilized their economy in addition to cultivating a strong tribal nation.⁵²

Despite the Osages' approval of their leasing situation, Agent H. B. Freeman advised that grazing leases simply be outright dismissed by the Office of Indian Affairs. Freeman found that

⁵¹ Brosius, “Impressions from a Summer’s Tour,” 123; Freeman, “Report of Osage Agency, Pawhuska, Oklahoma, October 2, 1896,” 262.

⁵² Burrill, “Grassland Empires,” 74-75; Smith, 139; Newman, 176; W. A. Jones, “Report of the Commissioner of Indian Affairs, Washington, September 26, 1898,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington: GPO, 1898), 58.

some lessees abandoned their leases without remitting payment to the Osages, causing the tribe to lose \$14,771.28 in 1894 alone. Freeman likely did not want to continue filing paperwork on behalf of the Osages and readily admitted he thought the Osage Nation had “already more money than is good for them.”⁵³ Fortunately for the tribe, owning their reservation lands meant the Office of Indian Affairs could not make them end their leasing process. Just two years later, the Tribal Council approved an additional nineteen grazing leases, and by the turn of the twentieth century, the Osages made anywhere from \$100,000 to \$150,000 just from grazing lease payments.⁵⁴

By the 1940s, long after most histories of the tribe switch their focus to the topic of oil, the Osages continued to lease grazing lands and relied on the stability these leases provided as they witnessed dramatic swings in oil prices.⁵⁵ The Works Progress Administration included the Osage Reservation on one of their auto tours and specifically pointed out that “the hills near the city [Pawhuska] are widespread grazing lands on which as many as four hundred thousand cattle are pastured in one season.” The Osage Nation continued to rely on diversified economic interests in order to maintain a strong tribal nation.⁵⁶

When the Osages moved to their reservation within Indian Territory, they faced two significant challenges: lack of resources or money to purchase supplies and the ever-present threat of white settlers trying to claim Native land for their own homesteads. Grazing leases solved both issues. Clearly, leasing to cattlemen proved to be a profitable investment, but by leasing lands to “derive a revenue from a portion of their reservation that they did not require for

⁵³ Freeman, “Report of Osage Agency, Oklahoma, August 18, 1894,” 242.

⁵⁴ Freeman, “Report of Osage Agency, Pawhuska, Oklahoma, October 2, 1896,” 260.

⁵⁵ Annick Smith inaccurately, yet poetically, stated that as oil became a more profitable industry for the Osages, “cattle barons rode off into history’s mythological sunset.” Smith, 186; Baird, 66; O. A. Mitscher, “Report of Osage Agency, Pawhuska, Oklahoma, August 22, 1903,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington: GPO, 1903), 270; Debo, 85.

⁵⁶ Workers of the Writers’ Program, 291.

their present use,”⁵⁷ the Osages created a buffer zone “against any greedy Kansas homesteader”⁵⁸ searching for land to claim. Osage leaders realized cattlemen would do anything to protect their herds, and that protection often extended to the land where they pastured the cattle. Therefore, the Osages believed cattlemen and ranchers were far superior neighbors since they protected their reservation borders settlers often dared to cross. Additionally, tribal members preferred to settle in wooded areas near creeks, while the cattle needed the open ranges in the western part of the reservation. This symbiotic relationship enabled the tribe to live relatively unmolested by settlers attempting to access their lands after the cattle industry arrived. The tribe’s inclusion of ranchers allowed them to create new alliances and relationships that expanded their external relational web. By doing so, Osages emerged from the economic hardships of moving to a new reservation, and the ranchers provided protection from hostile forces attempting to gain access to the Osages’ lands and resources, exhibiting a true reciprocal arrangement.⁵⁹

While Osage tribal members recognized an opportunity and capitalized on cattle ranchers needing prime grazing acreage south of the tick quarantine line, as Alexandra Harmon argues, the Office of Indian Affairs and, at various times, their own agents, had to “rethink their own economic aims.”⁶⁰ Government officials held tightly to the belief that a successful and assimilated Native Nation could only be realized through tribal members embracing the Jeffersonian idea of yeoman farming. Many believed farming to be the easiest way to transition “uncivilized” Native Americans to “respectable” members of society. The Office of Indian Affairs wanted tribal members to be self-sufficient and care for themselves, not just live idly on

⁵⁷ Miles, “Osage Agency, August 20, 1885,” 90.

⁵⁸ Baird, 66.

⁵⁹ Smith, 159, 199.

⁶⁰ Harmon, 5.

their reservations. These inherently racist beliefs perpetuated the idea that Native Americans could not care for their people by performing traditional tasks or through a hybridization of modern employment and cultural duties. Instead, all activities performed by tribes and tribal members were measured against the societal norm of agriculture.⁶¹ As a result, Agent Laban Miles reported in 1885 that much work needed to be done because he considered farming among the full-blood Osages to be a failure. However, Osage tribal members had other ideas.⁶²

Tribal members, particularly full-bloods, participated in farming, but they only did so to provide enough food for themselves instead of establishing a commercial farming enterprise. However, these “small patches” did not satisfy the local agents or their superiors in the Office of Indian Affairs.⁶³ Immediately following their move to Indian Territory, Agents attempted several incentivized strategies to help tribal members and their families plow and fence acreage as a means to demonstrate farming as a viable option. However, tribal members did not see the need to immediately turn to the hard work of commercial farming, especially when buffalo hunts continued to provide for their people. When the buffalo hunts stopped being lucrative, cattle became the new source of income. With significant profits from grazing leases, tribal leaders realized they might be able to capitalize on white settlers who were itching to access Indian Territory lands for their own gain. By 1896, the Osages requested and received permission to lease unimproved lands to whites in one-year intervals. The Osage Nation willingly chose to

⁶¹ As late as 1949, one author argued that the Osages’ “desire for work did not increase with their ownership of land, and with the income they received, there was no necessity for working. Some farming was done by the more ambitious Indians, usually full bloods. The women were about as idle as the men, but did some beadwork in addition to the normal household duties.” Treatments such as this do not just belittle the Osages and their lifestyle, but they also belie the great political and strategic maneuvering tribal leaders performed in order to maintain their culture through their relational web. Without a deeper acknowledgement of tribal leaders’ reasoning and motivations, one cannot understand how the Osages negotiated these immense cultural changes and cultivated their wealth through unconventional means according to white upper-class citizens. Hicks, 13.

⁶² Miles, “Osage Agency, August 20, 1885,” 89-90.

⁶³ Ibid.

incorporate white settlers into their relational web since they saw an opportunity to benefit their people further.⁶⁴

Even though tribal members wanted to lease their lands instead of farming it themselves, they convinced Agent Colonel H. B. Freeman and his superiors of the benefits of this plan. Freeman agreed to the plan as long as the land leased had been claimed by individual tribal members. Allotment, or the process of assigning tribal lands to individuals, served as the ultimate goal of the Office of Indian Affairs starting in the 1870s.⁶⁵ To the federal government, individual land ownership signified an outward sign of assimilation and a step closer to eliminating the need for federal support. Freeman saw an opportunity to encourage tribal members to select their own allotments or claims by embracing the idea of agricultural leases among the Osages. Like many white employees of the Office of Indian Affairs, Freeman hoped this small concession would lead tribal officials to allot their lands fully. The recent events of the Dawes Commission, sent to Indian Territory in 1893 to the Five Tribes to hold official censuses and allot their reservation in 160-acre parcels to all enrolled tribal members, remained top of mind for government employees. They hoped allowing the Osages to lease their “claims” prior to substantive discussions of allotment would help ease the transition from holding reservation lands in common to individual ownership.⁶⁶

Encouraging tribal members to select their own “claims” started soon after the Osages moved to their new reservation in Indian Territory. Much of Agent Gibson’s plans to aid individual families in establishing their homes was part of a much larger goal for all Osages to

⁶⁴ Brosius, “Impressions from a Summer’s Tour,” 123; Freeman, “Report of Osage Agency, Pawhuska, Oklahoma, October 2, 1896,” 259.

⁶⁵ Allotment did not occur until 1906 due to a variety of issues including the Osages leaders insistence on numerous conditions that would benefit their people. This will be explored in detail in Chapter Four: Allotment, Statehood, and Sovereignty.

⁶⁶ Baird, 66; Burrill, 74.

embrace the concept of private property. This was particularly true as Gibson continually offered incentivized programs, such as providing fruit trees to tribal members who had “suitable ground well fenced,” thereby asserting their individual ownership of the land. By 1875, just four years after their removal to Indian Territory, 310 out of 468 full-blood Osage families had claimed land for themselves. Additionally, 150 of those 310 had a permanent house on their claim.⁶⁷ As time continued, those with mixed-race ancestry frequently outnumbered full-bloods in terms of the number of land claims they held. In 1890, the Osage Agency, likely in preparation for what they believed to be impending allotment commissions, strongly encouraged all tribal members to locate a claim for every member of their families. Once they did so, the agency and the tribal government could then issue a certificate for said claim. This practice was not codified, but “the agitation has caused a general rush for the claims, until it is difficult to find one that has not been located.”⁶⁸ These actions resulted in some families “owning” more than one farm. Agent Mitscher even reported that “a great majority...have from one to six and eight farms” due to making claims for each of their children. The Office of Indian Affairs, pleased with the rate of progress the Osages had voluntarily done, stipulated that all Osages choose 160-acre allotments in 1902 for the express purpose to ease the allotment process. An additional 400 tribal members chose their own allotments, which led Agent Mitscher to believe allotment would likely occur no later than 1903.⁶⁹

Even as individuals made land claim selections, the Osage Nation had no intention of breaking apart the ownership of the land. They continued to view their reservation as

⁶⁷ Gibson, “Osage Agency, I.T., Formerly Neosho, No. 20, September 1, 1874,” 223; Gibson, “Osage Agency, Indian Territory, September 1, 1875,” 277.

⁶⁸ Miles, “Report of Osage Agency, Oklahoma, August 30, 1892,” 391.

⁶⁹ Freeman, “Report of Osage Agency, Oklahoma, August 18, 1894,” 242; O. A. Mitscher, “Report of Osage Agency, Pawhuska, Oklahoma, August 14, 1901,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1901), 327; O. A. Mitscher, “Report of Osage Agency, Pawhuska, Oklahoma, August 21, 1902,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1902), 292-293.

communally held, but it was readily apparent that many took “pride in building up good homes for themselves.”⁷⁰ The Tribal Council recognized the potential complications of these claims, so they created protections for individuals to ensure no one infringed on another tribal member’s claim. However, the Tribal Council always intended for their citizens to abide peacefully under the larger protective umbrella of communally held lands. Individual claims created a more complicated situation as time progressed since land choices diminished for those who waited to secure their claims.⁷¹ Starting in 1891, some Osages who wished to have a particular claim purchased the land directly from other tribal members. This process did not simply equal an exchange of lands. Some tribal members sold prime claims for anywhere between \$100 to \$2000 depending on the “quality of the land and the value of the improvements” the previous owner had made. Even though Osages as a whole remained committed to the idea of communal land ownership, some tribal members used the sale of their claims as yet another economic opportunity.⁷²

When Samuel Brosius toured the Osage Reservation by wagon in 1899, he remarked that a handful of individuals firmly controlled the majority of the land due to tribal members selecting their own claims. Individuals who seemed to control more extensive tracts of lands likely were those who took advantage of claiming land early in the process or those who had large families and claimed land for each family member. Those who first selected claims were typically mixed-blood Osages, but as time passed, more and more full-blood Osages chose their own claims. Regardless of whether full or mixed-blood, Osages recognized they could profit

⁷⁰ L. J. Miles, “Osage Agency, October 31, 1889,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1889), 192.

⁷¹ Miles “Report of Osage Agency, Oklahoma, August 27, 1890,” 189.

⁷² L. J. Miles, “Report of Osage Agency, Oklahoma, September 1, 1891,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1891), 353.

from leasing their land to the very people who used to plague their existence. This proved particularly useful for controlling white settlers' access to their new reservation. In the past, these individuals likely would have been among those who squatted on tribal lands, but now white settlers were more than happy to lease lands from the Osages.⁷³

Once tribal members started receiving more financial resources through both the sale of their former lands and grazing leases, many hired whites to work their homesteads and farms. Since most Osages had no intention of farming their lands in the way their agents and federal employees encouraged them to do, they allowed whites to enter their reservation as hired help. This course of action became especially popular after the 1889 land run when the federal government opened the "Unassigned Lands" to white settlement.⁷⁴ Agent Laban Miles remarked on the fervor white settlers demonstrated as "it would seem that these whites think there is a mine of wealth awaiting them if they can only obtain a location in the Indian country..." The land rush occurred just to the southwest of the Osage reservation near present-day Oklahoma City, but tribal leaders once again realized they could expand their relational web for their benefit. In addition to hiring whites to work their farms, the number of tribal members leasing their claims directly to white families to create their own homesteads through agricultural leases steadily increased.⁷⁵

Although the Osage Tribal Council agreed to allow non-native peoples on their reservation, they wanted assurances that they would remain in control and their laws would be followed by the newcomers. The Tribal Council required any non-tribal member entering the Osage Reservation with intentions of conducting business or living permanently to sign an oath

⁷³ Brosius, "Impressions from a Summer's Tour," 123.

⁷⁴ Miles, "Report of Osage Agency, Oklahoma, August 27, 1890," 189.

⁷⁵ Miles, "Report of Osage Agency, Oklahoma, September 1, 1891," 354.

stating they were law-abiding citizens. A standard clause utilized in agricultural leasing contracts stated the lessee must “comply with all the laws of the Osage Nation and the laws and regulations of the Interior Department [and] not to harbor lawless characters of any kind, such as whiskey peddlers, horse thieves, etc.”⁷⁶ Some hopeful lessees included letters of recommendation attesting to their character in their applications so they could hopefully guarantee access to the land. The majority of these letters came from businesses agency employees likely would have frequented, such as the Johnston and Keeler Live Stock and Dry Goods store in Bartlesville and the General Merchandise store in Chautauqua, Kansas. Letters such as these frequently assuaged the fears of the Tribal Council as well as agency employees and often accompanied successful leasing contracts.⁷⁷

Even with assurances that white farmers were upstanding citizens of the United States, Agent Freeman grew increasingly concerned about the increase of leasing for two reasons. First, he feared full-blood Osages would choose to lease their lands so they could spend their summers dancing and feasting with their families and friends rather than learning the benefit of hard work through agricultural and domestic labor. Secondly, he feared tribal members could potentially find themselves in a situation where white settlers took advantage of the Osages. However valid Freeman’s second concern may have been, Osages demonstrated they could not only negotiate their own leases, but they did so in a way that benefited the entire tribe through their external relational web.⁷⁸ Tribal leaders continued to hone their negotiation strategies through their leasing economy; due to their success and steadily increasing profits, it is possible local Osage Agents feared tribal members would continue to earn money without the involvement of the

⁷⁶ Walter Bigheart & J. H. Pugh Lease, April 12, 1892, Box 4, RG 75, Records of the Land and Realty Division, NARA-FW.

⁷⁷ Cy and Leander Pore Lease, March 1, 1894, Ibid; Joseph Choteau & Frank Phebus Lease, March 4, 1901, Ibid.

⁷⁸ Freeman, “Report of Osage Agency, Oklahoma, August 18, 1894,” 242.

federal government. In an effort to seem in control of the situation, Agent Freeman reported to his superiors that he alone had revolutionized the leasing process so tribal members would have a “well-improved farm.”⁷⁹

Many government officials derided the practice by saying, “many Indians much prefer a little lease money,” but through the Osage Nation’s carefully cultivated leasing economy, they reaped rich rewards. Council members ensured the agricultural leases were written to ensure that tribal members received the most beneficial arrangement from the white lessee. Agent Freeman stated, “the lessee breaks out the land and fences it, builds a house, stables, and corn cribs, digs a well, all of which improvements must be of good substantial character. In addition, he is required to plant a specified number of fruit trees, and deliver all of this to the Indian free of incumbrances [sic] and in good condition, at the end of the lease.” Osage Agency employees drafted the agricultural leases with the specifications desired by the tribal member. Once both parties signed, the Commissioner of Indian Affairs and Secretary of Interior approved the leases making the strict conditions legally binding. This resulted in significant benefits for tribal members as they expanded their external relational web through mutually beneficial relationships – Osages received financial stability and remained in control of their land and resources, and white farmers had access to prime farmland resulting in their own profits once the crops were harvested.⁸⁰

Potential lessees worked within a host of conditions regulated by the Osage Nation for their lease to be approved and eventually renewed. One of the most frequent conditions required white farmers to plow a set number of acres of land and plant predetermined crops. Osage tribal members utilized white lessees to undertake the most labor-intensive portions of farming.

⁷⁹ Freeman, “Report of Osage Agency, Pawhuska, Oklahoma, October 2, 1896,” 259.

⁸⁰ Ibid.

Breaking acres of prairie was a particularly challenging task due to the extensive root systems of prairie grasses, some of which, like the compass plant and dotted grayfeather, have roots that can reach depths of twelve feet.⁸¹ At times, the acreage the lessee agreed to break could be minimal, like L. C. Allen, who agreed to “break 6 acres of sod for free.” However, some lessees agreed to break over 100 acres of land. The lessee could then use this land for their own gain, but not without some additional caveats overseen by the Osage lessor.⁸²

Osage landlords often stipulated what types of crops white farmers would plant on their farms. This allowed tribal members to remain consistently involved with the cultivation of their farms as well as continue to make money from the agricultural profits. Most farmers grew corn as their crop of choice since it stored well and provided suitable feed for livestock. At harvest, the tribal member took one-third of the crop as additional payment for the use of the land. Some lessors also stipulated they had the right to the harvested corn stalks to use as fodder for their personal livestock. For example, Eugene Ware requested thirty-three acres of corn stalks from his lessee George W. Snyder. Sam Gaylor requested all 100 acres of corn stalks to be delivered to him except for 100 stalks the lessee could keep for his own use. At times, Osage tribal members requested farmers to grow different cash crops. In this case, the tribal member agreed to provide the seed; however, they would take a larger share of the harvest as payment for the seeds provided for the planting. Andrew Wilkie requested R. H. Peace and J. D. Mullins cultivate oats on his claim. In exchange, Wilkie received one-half of the harvest instead of the standard one-third. In the case of Luther Harvey and F. J. Pierce’s lease agreement, Harvey

⁸¹ Smith, 80-81; Elliott West, *The Contested Plains: Indians, Goldseekers, and the Rush to Colorado* (Lawrence: University of Kansas Press, 1998), 205.

⁸² Thomas Prion and L. C. Allen Lease, March 1, 1890, Box 4, RG 75, Records of the Land and Realty Division, NARA-FW; Me-O-Tah-Moie and L. C. Patterson Lease, March 1, 1894, Box 4, RG 75, Records of the Land and Realty Division, NARA-FW.

requested millet to be grown on his forty-five-acre farm. As payment for the seeds, he received two-thirds of the crop. This arrangement clearly worked for the benefit of the Osages as they did not have to perform any of the necessary labor to cultivate a crop, but they still reaped large portions of the agricultural products grown on their land.⁸³

Many Osages who participated in agricultural leasing also negotiated to reserve a portion of their farms to utilize as gardens for their own personal food stores. This request was typically agreed to as tribal members typically only wanted a half-acre or less. Additionally, many Osages required lessees to plant orchards on the property and several tribal members went so far as to stipulate precisely what kind of trees should be planted.⁸⁴ Ho-Ne-A-Go requested “twenty peach, twenty apple, five plums, and five cherry trees of late and early varieties properly proportioned and suitable to this climate” to be planted on his claim.⁸⁵ Eugene Ware required George Snyder to plant no less than “fifty (50) apple trees, ten (10) peach trees, and five (5) cherry trees...and to keep the same number in good growing condition during the continuance of this contract.” White farmers readily agreed to tend the gardens and orchards for their landlord even if they did not benefit from the produce since it allowed them to obtain a foothold within Indian Territory. Despite their presence being tenuous at best, white farmers likely believed and hoped that allotment would soon come to the Osage Nation and they would have a chance to purchase the land they diligently worked.⁸⁶ Even in the face of some of the most exacting

⁸³ Miles, “Report of Osage Agency, Oklahoma, August 30, 1892,” 391; C. A. Dempsey, “Report of Osage Agency, Oklahoma, September 5, 1893,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1893), 256; David Fronker and M. Phipps Lease, March 1, 1894, Box 4, RG 75, Records of the Land and Realty Division, NARA-FW; Eugene War and George W. Snyder Lease, October 29th, 1896, Ibid; Sam Gaylor and Alex Pearson Lease, March 1, 1890, Ibid; Andrew Wilkie and R. H. Peace & J. D. Mullins Lease, March 1, 1894, Ibid; Luther Harvey & F. J. Pierce Lease, March 1, 1894, Ibid; Mo-Hah-Gra & L. A. Plummer Lease, March 19, 1894, Ibid.

⁸⁴ Pah-Che-Moie & L. K. Perkins Lease, March 1, 1894, Box 4, RG 75, Ibid.

⁸⁵ Ho-Ne-A-Go and Avery & Pershall Lease, January 15, 1897, Ibid.

⁸⁶ Eugene Ware and George W. Snyder Lease, October 29, 1896; Thomas Prion and L. C. Allen Lease, March 1, 1890.

demands, individuals agreed to the terms. One white farmer named Alex Pearson agreed to “farm said land in a skillful and workman like manner. And if said second party [Pearson] does not keep cuckle burs [sic] and weeds off of said farm or field, it is agreed that the first party [Osage tribal member Sam Gaylor] shall have the right to hire men to hoe all weeds on said farm and the second party agrees to pay for the same.” Even as agricultural leasing developed to resemble more of a sharecropping labor system, people still clambered to access Osage lands. The Osage Nation knew people wanted access to their lands, so they crafted a leasing economy that clearly prioritized the success of their people. This is a clear example of the black spider in Osage oral tradition who assured their ancestors people would come to their lands. The Osage Nation welcomed additional alliances and relationships with those who demonstrated their willingness to work with tribal members as they negotiated beneficial arrangements for their people. Tribal members extended their relationships and their external relational web whenever they had the opportunity, but they took measures to remain in control of their land and resources.⁸⁷

In addition to stipulating specific conditions related to agriculture and food production, the most enterprising tribal members requested additional improvements to be performed by their tenants. Fencing the leased acreage quickly became one of the most popular requests. To ensure the fencing consisted of quality materials and workmanship, many contracts stipulated the exact type of fence to be erected on the property.⁸⁸ Most clauses stated the fence must be “a good substantial seven wire fence with posts not less than eight feet appart [sic]” like the request of Ho-Ne-A-Go, but others insisted on detailed and complex specifications.⁸⁹ Me-O-Tah-Moie’s

⁸⁷ Sam Gaylor and Alex Pearson Lease, March 1, 1890.

⁸⁸ Barnard Plomondon and Henry Poffenberger Lease, March 1, 1903, Box 4, RG 75, Records of the Land and Realty Division, NARA-FW.

⁸⁹ Ho-Ne-A-Go and Avery & Pershall Lease, January 15, 1897.

lease with L. C. Patterson stated all 100 leased acres must be surrounded by a “hog tight fence, ½ (half) 2 wire 4 slats posts 8 ft, and the other 1.2 rail fence...” Complex leasing agreements ensured the work done by the lessees met the standards of the lessor, but they also provided some additional protects for the tribal member. If the renter did not complete the work or did not adhere to the specifications, the lease could be voided, allowing the tribal member to assume possession of the land and all improvements on the land.⁹⁰

The next most popular request came in the form of buildings being constructed on the claim by the lessee. At times, some supplies would be provided by the tribal member, or some sort of payment would be given in exchange for the labor of the lessee; however, as the leasing economy became more established, tribal members often offered no compensation for the construction of houses or outbuildings. If a claim did not contain a dwelling, Osage lessors included a clause as to the type of house they would like constructed, such as a dog trot frame home or a hewed log house, and the size, typically around fourteen by twenty-six feet in dimensions. If a home existed on the farm, other out buildings could be requested, such as an outdoor kitchen, stables for four to six head of horses, the digging and walling of a well in close proximity of the house, and corn cribs to hold the yearly harvest. The series of clauses and specifications regarding what the lessee needed to accomplish to comply with the lease continued to grow as time progressed. This directly led to tribal members amassing wealth in both monetary forms due to rent being paid on an annual basis, but also in goods and improvements to their lands.⁹¹

⁹⁰ Me-O-Tah-Moie and L. C. Patterson Lease, March 1, 1894, Ibid.

⁹¹ E. A. Brunt and E. S. Pennington Lease, February 1, 1904, Ibid; Mary Lewis and E. L. Philips & D. H. Goldon, March 19, 1890, Ibid; Sam Gaylor and Alex Pearson Lease, March 1, 1890; Ho-Ne-A-Go and Avery & Pershall Lease, January 15, 1897; Thomas Prion and L. C. Allen Lease, March 1, 1890; Eugene Ware and George W. Snyder Lease, October 29, 1896.

Agricultural leases were drafted yearly and could be renewed for up to five years. At the end of the five years, the lease became null and void, and all improvements made to the land reverted to the rightful owner – the tribal member. The final clause in every leasing contract stated that if the lessee refused to complete the actions described in the contract, they must vacate the land. In addition, once the five-year renewal period came to a close, the lessee must relinquish the land, and all improvements “shall become the absolute property of the party of the first part [the Osage tribal member] upon the termination of this lease.”⁹² The lessee had no legal recourse to collect any form of compensation from the tribe. Tribal members could request to have their lands returned to them at any point before the five-year period ends but must pay the white farmers a “fair price” for the work completed on their claim. White tenants had minimal protections throughout their leasing agreement. Instead, the Tribal Council, in tandem with the Osage Agency, ensured the welfare of the Osage Nation remained first and foremost in the minds of anyone who willingly engaged themselves contractually with the tribe.⁹³

What is abundantly clear from the Osages’ participation in leasing is how successful they had become at utilizing negotiation strategies to benefit the most from this relationship. The Osages slipped into the position of a landlord with ease and gladly had white settlers act as “the sole factor in subduing this soil and these forests for husbandry.”⁹⁴ Those who participated in the leasing economy did not do so absent-mindedly. Instead, tribal members actively engaged in negotiation and diplomacy with white settlers they allowed to enter their relational web. Some Osages even decided to live on their claims with the white lessees to ensure the land, crops, and the necessary improvements were attended to appropriately.⁹⁵ More than just overseers, some

⁹² E. A. Brunt and E. S. Pennington Lease, February 1, 1904, Ibid.

⁹³ Ho-Ne-A-Go and Avery & Pershall Lease, January 15, 1897.

⁹⁴ Mitscher, “Report of Osage Agency, Pawhuska, Oklahoma, August 22, 1903,” 270-271.

⁹⁵ Freeman, “Report of Osage Agency, Oklahoma, July 31, 1895,” 255.

Osages came to see those who worked for or leased land from them as an extension of their own families. It was not uncommon for the Osage claim holder to share meals with their lessees, with “the provisions being supplied by the Indian and cooked by the white.”⁹⁶

Tribal members understood their position of power, and their actions demonstrated that while individual Osages wanted to benefit from their arrangement, they did not want to do so in a way that would take advantage of their lessees. Some tribal members participated in reciprocal arrangements more than standard contracts required. For example, Tse-Shu-Hum-Kah agreed to provide a team of mules and pay his tenant \$1.50 per acre for caring for the corn crop.⁹⁷ Thomas Prion supplied lumber and nails for the construction of an outdoor kitchen on his claim and paid his lessee to build a fence around the land under contract. Whether or not tribal members started to see some white farmers as friends or as additional family members, they certainly accepted white settlers onto their reservation on their own terms. By doing so, tribal members, both on the national and individual level, engaged in the cultivation of their internal and external relational web. At times, those who started as external alliances became more a part of the internal relationships of tribal members and their families. This process and the relationships formed created a stronger and stable relational web for the Osages.⁹⁸

Although many tribal members opted to lease their claims rather than farm themselves, Agent Freeman tried various strategies to redirect these individuals back to an agricultural lifestyle. One of those methods occurred in 1894 when Freeman prevented tribal members from purchasing goods and supplies from licensed general stores and traders unless they farmed at least ten acres of their claim themselves. Freeman had difficulty enforcing this, especially since

⁹⁶ Freeman, “Report of Osage Agency, Oklahoma, August 18, 1894,” 242.

⁹⁷ Tse-Shu-Hum-Kah and Charles E. Payne Lease, March 1, 1890, Box 4, RG 75, Records of the Land and Realty Division, NARA-FW.

⁹⁸ Thomas Prion and L. C. Allen Lease, March 1, 1890, Ibid.

general store owners desired to do business with those who had the most money, typically individuals who leased their claims. Additionally, by 1894, more white settlers and businessmen had come to Indian Territory and opened general stores and trading posts just outside the reservation boundaries. When one factors in the vastly improved roads through the Osage reservation, those determined to purchase their goods could easily find alternatives and circumvent the licensed traders on the reservation.⁹⁹

In 1905, Osage Agent Frank Frantz seemed to view agricultural leasing in a much more favorable light than his predecessors. This may have resulted from his unending desire for the tribe to allot their lands, especially since he often stated the beneficial influence white lessees had over the Osages. Nevertheless, his reports reveal how successful agricultural leasing had become over the previous thirty years. When Frantz arrived at the reservation, he found many agricultural leases had been made informally, and neither the Osage Agency nor the Office of Indian Affairs maintained accurate records. After conducting an audit, he determined that collectively, the Osages had 1,133 agricultural leases, encompassing 250,000 acres. The audit clearly demonstrated how lucrative the Osages' leasing economy had become. Government officials were surprised to learn the Osages' negotiations yielded them \$75,000 annually in rent payments. Additionally, lessors received the equivalent of \$15,000 from improvements made to their lands in the form of crops, homes, outbuildings, gardens, orchards, etc. Not to be outdone, the Osages also received a separate total of \$50,000 a year from "grain rental," which referred to their share of the final harvested crops. The Osage Nation's long history of negotiating peace treaties, trade agreements, and land cessions allowed them to negotiate for beneficial agricultural leases. Without that prior experience, the Osage Nation would likely not have been in such a

⁹⁹ Freeman, "Report of Osage Agency, Oklahoma, August 18, 1894," 242.

stable financial state by the turn of the twentieth century. These experiences culminated in contemporaries calling the Osage Nation the wealthiest per capita nation in the world decades before oil was discovered on their reservation.¹⁰⁰

Even with all the planning, negotiation, and reliance on their relational web, the Osage Nation experienced troubles with agricultural leases, not dissimilar to their grazing leases. Some settlers were so desperate to gain access to Osage lands they resorted to nefarious means and forced or coerced individuals to sign leasing contracts. Barnard Plomondon realized he had been the victim of a crime when he found Henry Poffenberger cutting trees on his claim. Plomondon signed a standard agricultural contract allowing Poffenberger to farm his 160-acre claim for eighty dollars per year. However, Plomondon filed an affidavit stating “he is not acquainted with said Poffenberger, that he would not know him if he saw him, that he has no recollection [sic] whatever of making the above mentioned contract or of signing the same; that at the time said alleged contract was entered into he, Barnard Plomondon, was in such a state of intoxication as to rend him wholly unconcious [sic] of said transaction.” Once the Osage Agency opened an investigation on the matter, Poffenberger rescinded his contract, and Plomondon soon negotiated a legal lease with another farmer. Records do not indicate frequent fraud of this kind occurred frequently. Instead, white lessees and farmers refusing to comply with their contractual obligations proved to be a much more frequent issue.¹⁰¹

Constables around the reservation investigated complaints and filed official reports detailing infractions as they occurred. John Olumnnes received a complaint from a woman

¹⁰⁰ Ret Millard, “Report of Agent for Osage Agency, Pawhuska, Oklahoma, September 1, 1906,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1906), 317; H. C. Ripley, “Report of Indian Trade Supervisor, Osage Agency, Pawhuska, Oklahoma, August 19, 1905,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1905), 311.

¹⁰¹ Barnard Plomondon and Henry Poffenberger Lease, March 1, 1903, Box 4, RG 75, Records of the Land and Realty Division, NARA-FW.

named Tah-Pah-Pe about a lessee named George Snyder in 1901. When Olumnnes investigated the condition of Eugene Ware's claim where Snyder leased, he found "the orchard entirely destroyed by cattle," some fencing needed to be repaired and the wire re-stretched, he had not planted a 100 acres of crops as required, and the "stables and coralls [sic] are in very bad condition. The stable is a log structure 16 + 18 and has begun to decay and has a very poor hay roof." Snyder promised to make the appropriate repairs before the expiration of his lease, but no more documentation exists to explain how this issue resolved itself. Regardless of the resolution of this specific incident, tribal members who participated in agricultural leasing had a vested interest in safeguarding their claims since all leasing contracts expired after five years. If a lessor did not monitor the condition of their claim, they could face potential economic misfortune when they resumed ownership of the land.¹⁰²

During this time, the most serious issues of agricultural leases occurred between the Revard family and farmer Joseph Venator. Venator leased a combined 260 acres of farmland and 400 acres of pasture and feed lots for \$1,200 a year from five members of the Revard family. Things seemed to go well until Venator built a barn on a parcel of land not belonging to his original lease agreement. When he asked to be paid for the materials and labor to build the barn, the Revards surveyed their claims. They found that Venator had removed wire from fences they had installed prior to the lease, cut down a valuable walnut tree for firewood, removed the fence around the family's orchard, and "allowed cattle to move in the orchard and even to move through the house and destroyed the doors in the house." Additional investigations from Constable John A. Gardner revealed Venator had sublet some acreage to other farmers for a profit of \$140, which was is a direct violation of his lease. The Revards had given permission to

¹⁰² Eugene Ware and George W. Snyder Lease, October 29, 1896; John Olumnnes Report, February 19, 1901, Ibid.

cut fence posts to repair fences on the land, but he instead “sold them to outside parties.” Due to these issues, Superintendent Ret Miller revoked the agricultural leases and returned the claims, albeit with damages, to Mrs. Susan Revard. Even though this case serves as an extreme example, it demonstrates the potential losses and damages that could occur as individuals participated in this economic venture. When the leasing economy operated as designed, the Osage Nation made great strides in improving their economy and the status of their people. When problems arose, not only did individual Osages lose money, improvements to their lands, and property values, but they also faced increased scrutiny from government officials who called the entire leasing economy into question.¹⁰³

The Osages leasing economy continued to grow and expand throughout the early twentieth century. By the 1920s, the Osages engaged in grazing, agricultural, and oil leasing, which provided tribal members with incredible wealth, but many government officials opposed the entire leasing economy. Lewis Meriam proved himself a crucial opponent to Native Americans participating in leasing arrangements with white settlers and farmers. Meriam, who was sent to survey the conditions of tribal nations in 1928, believed that leasing lands to neighboring whites did not aid tribal members since it did not “educate the Indian to work his own land.” Meriam reported that many agents across the country, after a period of attempting to teach Native Americans to farm their lands, thought it better to lease the land rather than allow it “to lie idle.” However, Meriam disagreed. According to his instructions to his team, they only could report “earned income” for tribes and tribal members. This meant if a Native American man farmed his fifty-acre farm himself, his profits would be counted as earned income, but if that same man leased his farm, the money received, even if it happened to be greater than if he

¹⁰³ William Revard and Joseph Venator Lease, February 1, 1904 – February 1, 1908, *ibid.*

farmed and sold his goods at market, would be considered “unearned income.” This unfairly characterized Osage tribal members since it lumped those who chose to become landlords and manage their leasing agreements with Native peoples who, due to their own unique and complicated circumstances, could not develop a leasing economy and received rations from the Office of Indian Affairs. In the end, these mischaracterizations caused government officials to regard Osages as “lazy” and “unwilling” to work to improve themselves.¹⁰⁴

Meriam and his employees were particularly concerned about leases that consisted of multiple claims since individual tribal members could potentially be prevented from farming their own lands due to it being leased in a lot. The Osage Tribal Council successfully sidestepped this recommendation by only allowing the leasing of multiple claims if they belonged to family members and were located on neighboring land. Leasing agricultural lands to white families proved to be a lucrative economic venture that aided the Osages. Osages may not have tended their own gardens, but through their relational web they continued to provide for themselves and their families in ways that they would never have been able to achieve if they waited for the federal government for assistance or if they had farmed their own claims.¹⁰⁵

The Osages’ capitalistic ventures via their leasing economy surprised casual observers and frustrated government employees since tribal members economic development differed drastically from the idealized yeoman farmer. Federal agents frequently reported they found the Osages “suffering no economic hardship...”¹⁰⁶ and soon, some individuals began to call the Osages “God’s chosen people.”¹⁰⁷ This remarkable turn of events occurred less than a decade after their removal from their Kansas Reservation. Utilizing negotiation, diplomacy, and most

¹⁰⁴ Meriam, 40, 433.

¹⁰⁵ Freeman, “Report of Osage Agency, Oklahoma, August 18, 1894,” 242; Meriam, 476.

¹⁰⁶ Wilson, 48.

¹⁰⁷ Newman, 176.

importantly, by carefully expanding their relational web to invite new people and economic ventures, the Osages successfully deflected attacks on their sovereignty and instead cultivated financial resources that supported their people. By 1876, the Osages had weathered the most difficult years after their move to Indian Territory and soon began to draw annual interest payments from their Treasury funds. In seven short years, the Osage Nation developed its leasing economy, and federal employees soon recognized the wealth present among the Osages. Pleased by the Osage Nation's rapid "advancement," the Office of Indian Affairs ignored the enterprising nature of the tribe and their relational web and instead started to eliminate some of their support services, such as free access to the agency mill, blacksmith, and livery. Undaunted, tribal members continued to develop their communities through their own monetary investments. In 1886, Osage agents estimated the investment made by the tribe in their communities at \$13,000, close to \$400,000 in modern currency.¹⁰⁸

When Captain Carroll H. Potter received an appointment to become the Osages' new agent in 1887, he quickly reported back to Washington that the Osages were "the best provided-for Indians it has ever been my fortune to meet." Due to their quarterly annuity payments of thirty-five to forty dollars per person, Potter stated, "In fact, for Indians, they are rich."¹⁰⁹

Historians tend to focus on the wealth the Osages obtained through their oil and mineral developments in the early twentieth century; however, the Osages' leasing economy placed them among the wealthiest nations long before discussions over oil development ever began.

Combined with their annuity payments from the sale of their Kansas reservation lands, the end of

¹⁰⁸ Beede, "Osage Agency, Indian Territory, August 15, 1876," 53-54; Miles, "Osage Agency, Ind. T., August 11, 1883," 73; Miles, "Osage Agency, Indian Territory, September 1, 1884," 82; James I. David, "Osage Agency, Indian Territory, September 1, 1886," in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1886), 133.

¹⁰⁹ Carroll H. Potter, "Osage and Kaw Agency, August 1, 1887," in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1887), 84.

the 1880s marked a net gain of nearly \$255,000 annually for the tribe.¹¹⁰ This fortune, especially for the late nineteenth century, demonstrates the tribe's commitment to protecting their people and their resources through their internal and external relational web. Additionally, agents reported tribal members collectively owned "7,200 horses, 700 mules, 5 burros, 10,000 cattle, 11,200 swine, and 10,000 domestic fowls."¹¹¹ Osages understood they could not hold all their wealth in money alone, so they diversified their economic interests through livestock holdings. Tribal members actively traded and sold their livestock to the federal government and other interested parties, which earned them nearly \$18,000 in 1898. Through the Osage Nation's diversified economic ventures, they grew and maintained their wealth despite a volatile economic market throughout the 1890s.¹¹²

Not only did the Osages cultivate wealth on an individual and community basis, but they sustained their wealth from that point forward. For example, nearly a decade later, Agent William Pollock stated the Osage people "are aristocrats and, like all wealthy people, scorn to perform manual labor. 'They toil not, neither do they spin.' Who can blame them, and who is to blame for this state of affairs?"¹¹³ Government employees continually expressed concern about the seeming lack of "ambition" among the Osages since they did not see many tribal members

¹¹⁰ T. J. Morgan, "Report of the Commissioner of Indian Affairs, Washington, October 1, 1889," in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1889), 55.

¹¹¹ Wm. J. Pollock, "Report of Osage Agency, Pawhuska, Oklahoma, August 29, 1898," in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1898), 241.

¹¹² On United States economic cycles during the nineteenth century, see Rendigs Fels, "The American Business Cycle of 1879-85," *Journal of Political Economy* 60.1 (Feb., 1952): 60-75 and David Glasner, *Business Cycles and Depressions: An Encyclopedia* (New York: Garland Pub., 1997). Freeman, "Report of the Osage Agency, Pawhuska, Oklahoma, October 2, 1896," 261; Smith, 145;

¹¹³ William Pollock quotes Luke 12:27 stating "Consider the lilies how they grow: they toil not, they spin not; and yet I say to you, that Solomon in all his glory was not arrayed like one of these." Pollock could have meant this in two distinct ways. The Osages, much like lilies or wildflowers, are akin to "wild creatures" that the Bible promises God will take care of in His own way because they were like children who needed to be tended to in a paternalistic manner. Secondly, he meant to select a negative sounding phrase to illustrate how their leasing economy "amply support[ed] them in idleness." Luke 12:27 KJV; Pollock, "Report of Osage Agency, Pawhuska, Oklahoma, August 16, 1899," 294.

actively working their own lands. Many did not care to understand exactly what the Osages did to earn their wealth. For these individuals, it was easier to simply dismiss the economic navigation and hard work accomplished by tribal members to aid their people rather than confront the fact that a Native Nation had cultivated wealth. Harmon's research indicates the contemporaries who discounted Osage wealth were much like most Americans who continually stereotyped Native wealth from the colonial period to the modern era.¹¹⁴

White Americans grew increasingly concerned over what they considered to be exorbitant economic advantages among the Osages. At all levels of society ranging from local white residents to the federal government, people frequently discussed the Osage Nation and their growing wealth. In the racist ideology of the late nineteenth century, whites could not understand why Native Americans were the recipients of a great fortune when they could benefit so much more from that amount of money. As Alexandra Harmon argues, Americans have a long history of discounting Native wealth since many believed Native Americans did not need nor deserved to accumulate wealth.¹¹⁵ The once famed Captain Richard Henry Pratt, the mind behind Indian boarding schools to eliminate Native culture, stated at an Annual "Friends of the Indian" meeting at Lake Mohonk, "you might as well give them [Indians] so many beans as so many dollars." Once they learned of the Osages' wealth, Americans immediately coveted that wealth as their own. To most Americans, the Osages needed to be protected from their impulses to spend all their money at once and from unscrupulous whites who sought to take the Osages' money outright.¹¹⁶

¹¹⁴ Pollock, "Report of Osage Agency, Pawhuska, Oklahoma, August 29, 1898," 241.

¹¹⁵ On wealth among Native Nations from the colonial era to the development of modern gaming, see Alexandra Harmon's *Rich Indians*. Her chapter on the Osages (Chapter 5: Osage Oil Owners) focuses on the Osages wealth from oil development, but follows many of the patterns seen in this earlier period.

¹¹⁶ Pratt, *Twelfth Annual Lake Mohonk Conference*, 1894, 70.

One way to deny the legitimacy of the wealth of tribal nations came in the familiar form of paternalism. Theodore Roosevelt, then the U.S. Civil Service Commissioner, discussed the inevitable dangers and pitfalls of a wealthy Native Nation, such as the Osages. “It is true that harm is done by giving the Indians too much money. Do you know what is the richest community in the United States to-day? The Osage Indians: there is no part of New England where there is so much wealth. It equals fifteen thousand dollars per capita in that tribe. And they are going down under it. As much injury is done by sentimental giving as the most brutal white borderer can do by deliberate wrong.”¹¹⁷ By emphasizing how harmful money became in the hands of Native Americans, white policy makers encouraged the government to maintain firm control over Native peoples through their wealth. Many Eastern Reformers saw this as the only way to protect the Osages from “idleness, disease, whiskey, and every destroying influence that Anglo-Saxon greed and genius can think of.”¹¹⁸ George Vaux, Jr., Chairman of the U.S. Board of Indian Commissioners, defended the Osages at the time, by remarking the same extravagance seen among the Osages was “essentially the same in our metropolitan communities...” Statements such as these did not convince Congress, who eventually passed a law giving the Secretary of Interior the discretion to place the money received by Osage tribal members in their account held by the Treasury Department. Despite the industry displayed by Osage tribal members and their inclusion of additional economic opportunities garnered through the creation of new alliances, the federal government removed their autonomy to use that money in ways tribal leaders deemed necessary. As the Osage Nation received even more money once

¹¹⁷ Theodore Roosevelt, remarks during open discussion after “Report of Committee on Law,” in *Report of the Tenth Annual Lake Mohonk Conference on the Indian and Other Dependent Peoples* (n.p.: Lake Mohonk Conference, 1892), 108.

¹¹⁸ Pratt, *Twelfth Annual Lake Mohonk Conference*, 1894, 70; *Federal Indian Law Handbook*, 253.

oil royalties started in the early twentieth century, tribal leaders continued to rely on their long-tested strategies of negotiation and diplomacy to maintain the integrity of their people.¹¹⁹

Hindsight demonstrates the Osage Nation's innate ability to adapt to their changing circumstances in the best interest of the tribe, but at the time, Indian Agents often remarked how tribal members threatened to break apart the cohesiveness of the tribal nation. Agent Cyrus Beede explained key differences between full-blood Osages and those he called "half-breeds." He argued full blood Osages viewed "half-breeds" as "taking undue advantages...to secure large shares of benefits to themselves..." By 1877, in addition to the wealth of the Osage Nation, many tribal members had selected claims to lease to white settlers and cattlemen. As a result, Beede saw increased jealousy between full and mixed blood Osages. At this point, the Osages had stretched and expanded their relational web to encompass new opportunities and individuals, but they struggled to maintain a cohesive community among their people. Agent Beede recognized this tension and tried to convince his superiors to allow "half-breed Osages" access to their share of tribal funds and subsequently be released from their tribal affiliation. He argued this would allow the federal government to focus their attention on the full-blood Osages and their attempts to assimilate and "civilize them." Lastly, Beede believed the Osage Tribal Council should not have any voice in deciding who could be a tribal member. Rather, he believed that only Congress could bring questions of tribal membership to a satisfactory resolution due to the complexities of the issue. Fortunately, the Commissioner of Indian Affairs ignored this blatant assault on Osage sovereignty, and the Tribal Council continued to handle the Nation's affairs.

¹¹⁹ George Vaux, Jr., "The Pauperism of Riches – An Indian Paradox," in the *Report of the Thirty-fourth Annual Lake Mohonk Conference on the Indian and Other Dependent Peoples*, (n.p.: Lake Mohonk Conference, 1916), 72; Chapter 1402, April 21, 1904, 33 Stat. L. 189 in Barney, 33; Frank Frantz, "Report of Osage Agency, Pawhuska, Oklahoma, August 25, 1904," in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1904), 297.

Tribal leaders recognized rising tension among tribal members and, therefore, drafted a modernized constitution in 1881.¹²⁰ This legal maneuvering allowed leaders to adjust the responsibilities and roles of tribal members in a way that balanced power and influence between full and mixed-blood individuals. This allowed the Osage Nation to not only retain their sovereignty but also allowed them to realign themselves, strengthen their community, and repair any threatening tears in their relationships.¹²¹

Despite Osage tribal leaders successfully mending their internal relational web through their new constitution, the suggestion that full and mixed blood Osages should be separated continued for decades to come.¹²² Once again, nothing came of these suggestions, but it is important to note that continual pressures and threats to Osage sovereignty remained. A more invidious version of this conversation came in the form of Indian Agents comparisons between full and mixed-blood Osages. Because assimilation tactics and the encouragement of “civilization” remained the focused goal of the federal government, agents frequently commented on how more mixed-bloods claimed land and built homes so they could abandon “their lodges as soon as their houses are completed.”¹²³ Agent Miles conducted a census and went from “lodge to lodge” of full blood Osages where he “saw many with scrofulous sores, undressed, naked, and dirty-faced children, women broken down with carrying heavy burdens, homes without an evidence of comfort or refinement, ‘Rich, yet how poor!’ and wondered if even the hoarded millions that these people possess in common would ever be appreciated by them, or they use it to really better their condition.” Accounts such as this show the Osages’

¹²⁰ For further information about the 1881 constitution, see Chapter 2: “New Beginnings in Indian Territory?”

¹²¹ Beede, “Osage Agency, Indian Territory, August 20, 1877,” 92-93.

¹²² Frank Frantz, “Report of Osage Agency, Pawhuska, Oklahoma, August 16, 1905,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1905), 311.

¹²³ Miles, “Osage Agency, Ind. T., September 21, 1881,” 86.

efforts at maintaining their sovereignty were constantly discredited by federal employees, even those who knew them best. Nevertheless, tribal leaders remained stalwart in their commitment to their people.¹²⁴

While tribal leaders continually fought to retain their sovereignty for the safety of their people, they did not turn away from other Native groups that needed support. One such group was the Quapaw Nation who had faced many of the same circumstances as the Osages, but due to their significantly smaller population, they could not as easily negotiate from a position of strength. Quapaw history tracks very similarly to the Osages, starting with their shared Neosho Agency in Kansas and moving to Indian Territory to lands purchased from the Cherokees in 1867. The Quapaws encountered difficulties obtaining their annuity payments and rations from the Office of Indian Affairs soon after moving to Indian Territory. To help alleviate the suffering of their people, the Quapaw Nation contacted the Osage Nation to see if they could enroll their children in their school run by French Catholic missionaries, to which the Osages readily agreed. Once the Quapaws received financial support for educating their children, they began sending the Osage Nation money to support of the school as they continued to send their children to the Osage reservation to be educated.¹²⁵

The Quapaws recognized they needed aid to improve their situation, so they turned to their powerful Native ally for support – the Osages. The Osage Nation had demonstrated their valuable negotiation strategies and adaptation to a rapidly changing world to the Office of Indian Affairs and other Indigenous Peoples. Osage tribal leaders' unique ability to retain power and sovereignty over their people and resources led many tribal groups to follow their precedent, especially as the tribe would become the first Native Nation to develop oil on their lands.

¹²⁴ Miles, "Osage Agency, Indian Territory, September 1, 1884," 83.

¹²⁵ W. David Baird, *The Quapaws* (New York: Chelsea House Publishers, 1989), 66-68.

Quapaw tribal members recognized this strength and slowly started to follow their own children to the Osage reservation to escape their oppressive situation. Many Quapaws feared the Office of Indian Affairs would place “troublesome” western tribes, such as the Modocs, Cheyennes and Arapahoes, Poncas, and the Tonkawas, on portions of their own reservation. These displacements did not occur, but the threat of losing more land and resources likely encouraged more tribal members to leave the area seeking better opportunities.¹²⁶

According to the Osage Agency, a large group of Quapaws came to the reservation in the spring of 1879 to seek refuge from “*great evils prevailing in the civilized states, ‘whisky’*” [emphasis in original text]. Agent Miles reported the refugees were destitute, and they arrived among the Osages too late to plant crops.¹²⁷ H. W. Jones, the Quapaw Agent, reported that the tribe had been demoralized by their “proximity to the vicious, intermeddling whites usually found on our border, [and] has materially retarded their progress.” Even though the Osages, and likely the Quapaws themselves, did not know if they sought temporary asylum or more permanent arrangements, the Osage Nation expanded their relational web to encompass a people group in need.¹²⁸

As more people arrived on Osage lands, it became clear that the Quapaws wanted to live with the Osages for an extended period of time. By the spring of 1880, around 200 Quapaws planted their own crops, built permanent homes, and some started working for mixed-blood Osage families. To Agent Miles, the Quapaws did not intend to return to their own reservation, and by all accounts, the Quapaws seemed to enjoy their time away from the watchful eye of their own Indian Agent. This was particularly true since those who left their reservation tended to

¹²⁶ Ibid., 68-69.

¹²⁷ Miles, “Osage and Kaw Agency, August 31, 1879,” 70.

¹²⁸ H. W. Jones, “Quapaw Agency, Indian Territory, August 30, 1878,” in the *Annual Reports of the Commissioner of Indian Affairs*. (Washington, D.C.; GPO, 1879), 65.

follow a traditional lifestyle in communal villages. Since the Osages and Quapaws, once part of the same ancestral tribe and thus remained culturally similar, resided in the same areas and remained allies, many white observers suggested the Osages adopt the Quapaws. These conversations started in the 1820s as the federal government drafted early land cession treaties but became even more pressing as the Osages hosted the Quapaws on their reservation. Osage tribal leaders seemed to welcome this adoption of their allies, but Quapaw citizens remained hesitant.¹²⁹

While the Quapaws weighed their options, Agent Miles expressed concern about the fate of the Osages if they continued to support 200 additional tribal members. He also seemed to grow frustrated that the Quapaws appeared to live off the generosity of the Osages. Miles disapproved of the Quapaws' traditional lifestyle and feared their dancing, gambling, and “liv[ing] hard” lifestyles would corrupt the Osage Nation.¹³⁰ Ultimately, the Quapaws returned to their own reservation to participate in allotment after their Agent informing tribal members that no allotment would be made for those residing off the reservation. By the time the Quapaws returned to their reservation to face allotment, they had resided with the Osages for nearly a decade. The reasons for the Quapaws' sojourn are multi-faceted and call for an independent study, but the most essential aspect of this account is that the Osage Nation's ability to retain their sovereignty and improve their position once on their permanent reservation was readily apparent to neighboring tribal nations, as in the case of the Quapaws. Indian Agents and other federal employees continually tried to diminish the importance of the Osage Nation and tribal leaders' abilities to govern because their lives did not fit neatly into the “civilized” lifestyles

¹²⁹ Miles, “Osage Agency, Ind. Ter., September 10, 1880,” 76; Miles, “Osage Agency, Ind. T., September 21, 1881,” 86; Miles, “Osage Agency, Indian Territory, September 12, 1882,” 72; Miles, “Osage Agency, Ind. T., August 11, 1883,” 74, Baird, *The Quapaws*, 55, 74.

¹³⁰ Miles, “Osage Agency, Indian Territory, September 1, 1884,” 82.

white Americans impressed upon Native Nations. The Osage Nation not only maintained control over their people and resources, but they utilized that success to aid their close allies within their relational web.¹³¹

After multiple generations faced continual threats to their lands, homes, and people, tribal members found relief in the form of additional money and status. While tribal members used their wealth to live the lifestyles of their choosing, agents reported the Osages “are indolent in their habits, the men lounging about their lodges or house most of the time, allowing the women to do most of the work.”¹³² Senator Henry Dawes, orchestrator of the Dawes Act to eliminate “surplus lands” from tribal nations in order to open more land for white settlers, argued that money in the hands of Indians “might as well have been thrown into the Pacific Ocean, for any permanent good it would bring the Indian.”¹³³ Even if the Osages had been aware of this statement, they would have continued to invest in their homes and care for their families. The money gained from their leasing economy helped them elevate their status among other Native groups, improved their bargaining and negotiating power, and allowed them to craft comfortable lives for their families. Individuals invested in comfortable and well-appointed homes with “stoves, chairs, beds, and other articles of furniture.” Agent Miles used this as evidence that the Osages started to accept the idea of “civilization,” but tribal members first used their wealth to make their own lives easier, then they turned their attention to adapting their tribal customs into their evolving world.¹³⁴

¹³¹ Miles, “Osage Agency, August 20, 1885,” 89; Baird, *The Quapaws*, 74.

¹³² Miles, “Osage Agency, August 20, 1885,” 89.

¹³³ Senator Henry Dawes, “The Administration of Indian Affairs,” in the *Report of the Eighth Annual Lake Mohonk Conference on the Indian and Other Dependent Peoples* (n.p.: Lake Mohonk Conference, 1890), 81.

¹³⁴ Miles, “Osage Agency, Ind. T., August 11, 1883,” 75.

As their wealth grew, tribal members soon turned to the same white settlers they leased their lands to as a potential source of labor. Osages had built their original homes, plowed their fields, built fencing, and developed and maintained roads with little assistance. After establishing their reservation and cultivating a robust leasing economy, many relied on hired laborers to perform work on their farms and homes.¹³⁵ Many tribal members considered working their own land as demeaning. Indian Agents grew increasingly concerned about this practice since he believed it turned the Osages into “an idle landlord,” especially when partnered with those who leased their farms.¹³⁶ Tribal members hired whites to farm and harvest crops, tend to livestock, cut and stack wood, and maintain the roads throughout the reservation. Prior to the monetary success of their leasing economy, the Osage Nation consisted primarily of individuals who adopted “civilization” principles that helped them survive the move to their new reservation. However, once they had money, Osage tribal members readily hired out this labor so they could live lifestyles of convenience.¹³⁷

One of the primary features of Osage life they were reticent to give up in favor of civilization was their cyclical nature of planting, harvesting, feasting, and dancing. They had been forced to give up buffalo hunting due to the increased risks of violence with white settlers and the diminishing numbers of herds, but the Osages refused to give up other parts of their cultural identity. The Osages utilized feasts and dances among bands to strengthen their internal relational web. Without these traditional customs, the Osage Nation was at risk, especially as they expanded outwards to encompass more individuals and economic interests. Feasts and

¹³⁵ Smith, 139.

¹³⁶ Burrill, 61.

¹³⁷ Morgan, “Report of the Commissioner of Indian Affairs, Washington, October 1, 1889,” 55; Freeman, “Report of the Osage Agency, Oklahoma, August 18, 1894,” 242; Freeman, “Report of Osage Agency, Oklahoma, July 31, 1895,” 255.

dances allowed tribal members to gather with friends and family located on other parts of the reservation. These gathering times allowed intergenerational relationships to form and transfer knowledge. As one agent stated, people relished these opportunities, as one agent stated, “The old men find great pleasure in recounting the past history of their people and have eager and interested listeners in the children.”¹³⁸ Government employees believed these practices had a negative effect on the younger generations, but these events served as opportunities for elders to educate children through oral stories, customs, and history maintained by tribal elders.¹³⁹

Indian Agents continually remarked on how little work tribal members, particularly full-blood individuals, did throughout a year. Agent Mitscher reported in 1902 that full-blood Osages spent the year “...visiting back and forth among their relatives and friends, lolling around camp, hunting lost ponies, and deporting themselves much as they have for the last forty years, and as they probably will for the next forty years.”¹⁴⁰ While he intended that as yet another slight towards tribal life, the number of traveling people did throughout the reservation allowed for the establishment of a season of community and tribal development. During the 1890s, as the Osages’ wealth continued to grow, most full-blood tribal members existed between two homes. Their country home consisted of their claim, fields, orchards, and livestock.¹⁴¹ They stayed on this property during the winter months, but during the summer, families moved to communal camps where they resided in houses that were “cheaply and loosely built, and permits ventilation from all sides.” These camps typically were located near one of the four roundhouses on the reservation where they held dances, particularly the I’n-Lon-Schka dance, that helped unite and

¹³⁸ H. B. Freeman, “Report of Osage Agency, Pawhuska, Oklahoma, August 18, 1897,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1897), 237.

¹³⁹ Carroll H. Potter, “Osage Agency, Ind. T., July 24, 1888,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1888), 101; Potter, “Osage and Kaw Agency, August 1, 1887,” 84.

¹⁴⁰ Mitscher, “Report of Osage Agency, Pawhuska, Oklahoma, August 21, 1902,” 292.

¹⁴¹ Newman, 177-178.

strengthen the binds between tribal members, which further strengthened their internal relational web. While living in the communal camps, non-Osages disparaged them for “‘sleeping the hours away,’ or engaged in a game of poker, at which they are adepts.” Few came to the defense of the Osages for participating in these essential tribal functions, but these events solidified the connections between tribal members as they navigated a rapidly changing world.¹⁴²

The most significant of Osage tribal dances is the I’n-Lon-Schka which continues to be practiced to the current day. This dance started in the 1880s after the Poncas and the Kaws taught it to tribal members. After the Osages adapted the practice by adding their own songs, they utilized the dance to help their Nation navigate the difficult time when they sold their Kansas reservation lands for unknown lands in Indian Territory. According to Alice Ann Calahan, the I’n-Lon-Schka dance “set standards of conduct and ways of living for the tribal members...it allows the feeling of the community to grow among tribal members...and reinforces tribal culture, customs, and beliefs to the tribal members.”¹⁴³ An Osage elder emphasized this cultural link between tribal members when he stated the dances were ceremonially linked to *Wa-Kon-Tah*, the creator of all things. “Wa-Kon-Da [sic] causes day to follow night without variation and summer to follow winter; we can depend on the regular changes and can order our lives by them. In this way Wa-Kon-Da [sic] teaches us that our words and our acts must be truthful so that we may live in peace and happiness with one another.” Osage tribal members’ commitment to tribal loyalty and identity demonstrates how tribal leaders maintained a steady influence over their people despite tremendous pressure and stress placed upon the Nation at large.¹⁴⁴

¹⁴² Mitscher, “Report of Osage Agency, Pawhuska, Oklahoma, August 21, 1900,” 339; Freeman, “Report of Osage Agency, Oklahoma, August 18, 1894,” 242.

¹⁴³ Callahan, 25, 18, 7, 19-21.

¹⁴⁴ Din and Nasatir, 14.

While the Osages utilized I'n-Lon-Schka dances to unite tribal members further, they also incorporated portions of their changing world into their traditional practices. For example, the Osages practiced what many in the nineteenth century called a “secret organization...something like Free Masonry” which utilized the growing wealth of tribal members. The Osages called this society *Wah-Hopeh*, meaning hawk shrine or at times translated by non-Osages as the Order of the Dove.¹⁴⁵ Few records exist to explain the exact nature of this society, but the most explicit information concerning its origins comes from John Joseph Mathews, who recorded many oral traditions of his people. In this particular story, the original Osage people decided to make a symbol that would watch over their entire tribe. They chose the hawk because “he alone was stainless, the perfect symbol for man, pre-eminent.” However, as they prepared the skins of the hawks in the Mystery Lodge, they were encountered by a bull buffalo and a clap of thunder. Knowing they must placate the restless and powerful spirits of the bull and thunder, the Sky People placed the buffalo and thunder in charge of keeping their most sacred icon, the *Wah-Hopeh*.¹⁴⁶

How this society was structured or existed throughout the history of the Osages is simply unknown. An account by Philip Dickerson, a white scholar who claimed to be a “neutral observer” of the Osages in 1906 wrote the most complete account of the *Wah-Hopeh* society. The inner workings of the society have been lost to history since the society is no longer in existence and considered by current tribal members to have “took their teachings with them...our people knew it was just time to put somethings [sic] away.”¹⁴⁷ What is significant is how the Osages incorporated their growing wealth and changing world into the process of inducting new

¹⁴⁵ Olcott, 22.

¹⁴⁶ Mathews, 38-39.

¹⁴⁷ Talon Satepauhoodle, email conversation with the author, August 19, 2020.

members. For a man to join, he had to provide a costly gift of “premium of cattle or beeves not less than five, to be slaughtered, or merchandise to be divided among the lodge members on initiation, amounting to over \$100.” The individual brought a dove which would then be skinned and posed “in attitude of living” and placed before the individual as a ceremony is performed as the sun rises in the East. Once the ceremony is complete, and the goods have been distributed, the newly inducted member carefully wraps the dove and holds it as a sacred item to be passed down through the generations. By requiring an individual to procure anywhere between \$100 and \$150 worth of cattle or purchased “merchandise” before they could begin the ceremony is a clear sign of the wealth maintained by the tribe as well as their changing society. Agent James David even suggested that the only reason why the Osages wanted to keep their own cattle was because of their desire to join the “Order of the Dove.” What was likely required before this period would have been more akin to buffalo hides and horses, but the Osage Nation adapted to their changing environment in a way that allowed for their most sacred traditions to continue.¹⁴⁸

As the Osages formed their own ideas and practices to maintain their tribal cohesion throughout the end of the nineteenth century, Indian Agents and other employees of the Office of Indian Affairs attempted to direct the path of the Osage Nation to adhere to their ideal of the “civilized Indian.” Agent Freeman stated his “most effective weapons” he employed to stop the Osages from visiting, feasting, and dancing was “ridicule and moral suasion, whereby I strive to impress upon them the necessity of looking forward, and of staying at their homes to look more closely after their property and the interests of their children.” He also adamantly believed the only way the Osages could be helped is if they participated in allotment so they could “settle down.” The Osage Nation considered themselves a “Nation with a big N” and were exceedingly

¹⁴⁸ Dickerson, 29, 31; David, “Osage Agency, Indian Territory, September 1, 1886,” 133.

proud of their “nationality.” Freeman’s passive-aggressive attempts at enforcing “civilization” among tribal members failed. Tribal members remained committed to their people and utilized their wealth in a way that facilitated their culture and independence from the federal government through their relational web.¹⁴⁹

The most common complaint of federal employees was that the Osages refused to work, and they would be hard-pressed “to find as many as twenty who have done ten days of productive labor during the past year.”¹⁵⁰ The majority of outsiders looking at the Osage Nation believed they had “been hindered in their industrial and moral development by their riches,”¹⁵¹ which was further emphasized by copious accounts of tribal members “squandering their money in gambling and debauchery.”¹⁵² Some reported these events with some sympathy, though, and explained how tribal members used their wealth was not uncommon for anyone with money to support their families.¹⁵³ Agent William Pollock stated it simply when he said, “He [a wealthy Osage] is human.”¹⁵⁴ By 1900, Commissioner of Indian Affairs, William A. Jones instructed Indian Agents around the country to withhold ration payments for Native Americans who refused to abandon their “uncivilized” ways of life. However, this edict did little for the Osages since their money from grazing, agricultural, and the beginning of oil leases left them independently wealthy and essentially untouchable by draconian policies such as this. Defenders of the tribe asserted that the Osages' actions were no different from any other wealthy citizen of

¹⁴⁹ Freeman, “Report of Osage Agency, Pawhuska, Oklahoma, August 18, 1897,” 237; Newman, 183; Callahan, 14; Miles, “Osage Agency, Ind. T., August 11, 1883,” 73.

¹⁵⁰ Freeman, “Report of Osage Agency, Oklahoma, July 31, 1895,” 255; Freeman, “Report of Osage Agency, Oklahoma, August 18, 1894,” 242.

¹⁵¹ Mrs. A. S. Quinton, President of the Women’s National Indian Association statement in the *Report of the Nineteenth Annual Lake Mohonk Conference on the Indian and Other Dependence Peoples* (n.p.: Lake Mohonk Conference, 1901), 78.

¹⁵² Miles, “Report of Osage Agency, Oklahoma, August 30, 1892,” 391.

¹⁵³ Miles, “Report of Osage Agency, Oklahoma, September 1, 1891,” 353; Frantz, “Report of Osage Agency, Pawhuska, Oklahoma, August 16, 1905,” 311.

¹⁵⁴ Pollock, “Report of Osage Agency, Pawhuska, Oklahoma, August 29, 1898,” 241.

the United States. However, there were many differences. The Osage Nation consisted of wealthy non-white tribal members whose mere existence frightened white Americans who worried about their status and racial hierarchies. It would not have mattered how responsible tribal members acted with their money; they would still be demonized for possessing something the average white Americans could not easily obtain.¹⁵⁵

The Osage Nation utilized their relational web to continue to adapt to their new lives within Indian Territory. Due to their prior experiences as negotiators with colonial traders, tribal leaders easily recognized the importance of incorporating two new economic opportunities into their daily lives. By creating a space for neighboring non-whites to sign grazing and agricultural leasing contracts, the Osage Nation set a legal and economic precedent for Native Nations throughout the United States. The Osage Nation carefully expanded its relational web to include new people and new ways to earn money to support their people. As they allowed additional people to enter their territory and world, the Tribal Council, with the support of local Indian Agents, demonstrated their control over their people as well as non-Native individuals. The result of these efforts meant the Osages quickly became the wealthiest per-capita nation in the world, decades before oil development. However, wealth brought increased attention to the tribe and additional troubles. As the new century dawned, the Osages saw new challenges that would test the fortitude of their people and the strength of their external alliances and their internal support structures. The Osage Nation soon faced Oklahoma Statehood and the issue of allotment with the same ruthless determination to protect their people and maintain their relational web for the benefit of the tribe.

¹⁵⁵ Ambler, 50; Miles, "Osage Agency, October 31, 1889," 193.

Chapter 4

Allotment, Statehood, and Sovereignty

The Osage Nation emerged from the difficult circumstances of the 1870s to carefully craft a leasing economy using their rich natural resources. Osages expanded their influence throughout the region by crafting new relationships to incorporate into their society. They strengthened their internal bonds and expanded their external relational web, by not only incorporating new individuals and relationships but also through the introduction of new economic interests into their sphere of influence. This unprecedented action allowed the Osages to create a thriving economy that enabled their people to escape poverty and the strained conditions immediately after moving to Indian Territory. Grazing and agricultural leases first allowed tribal members to experience self-sufficiency and served as an escape from government-supplied rations, and as the profits continued, tribal members soon experienced unprecedented wealth by the 1890s. This wealth provided tribal members opportunities to live the lifestyles most conducive for them to maintain their culture.

The federal government, while always watchful, became more interested in the Osage Nation as Oklahoma Territory began to agitate for statehood. The Osages, along with all tribal nations residing on reservations throughout Oklahoma and Indian Territories, faced allotment of their lands. This process allowed additional land to be opened for settlement throughout the area. The federal government supported this plan as it endorsed more dramatic assimilation efforts than had been tried in the past. However, the Osage Nation resisted allotment proceedings until 1906, almost two decades after the Dawes Act started the process of allotment with the Five Tribes. The Osage Tribal Council utilized the strength of their people, relied on their external relationships that constituted their relational web, and the wealth from their grazing

economy to assert their tribal sovereignty. These actions allowed the Osages to accept allotment on their own terms and when it was most conducive for their people.

Tribal members began to experience a new sense of freedom as they gained additional wealth from leasing their lands. This allowed members to participate in activities important to them and significant to the maintenance of their culture. However, becoming the “richest per capita nation” in the world also brought unforeseen complications. One complicating factor came via traders among the Osages. The ability to trade for necessities and even luxury goods resulted from the wealth derived from their leasing economy, but as time progressed, traders took notice of the additional funds at tribal members' disposal, leading many to attempt to defraud tribal citizens.

Immediately after moving to Indian Territory, Osages received goods, supplies, and food from the Agency in Pawhuska. As their leasing economy took root, tribal members requested permanent traders be allowed to establish general stores within their reservation so they could purchase their own goods. Agent Isaac Gibson agreed but took measures to ensure traders demonstrated “good moral character” and received a license to operate within Indian Territory.¹⁵⁶ In 1883, Thomas M. Finney, the first individual to receive a trading license through the Osage and Kaw Agency, pledged to follow the laws of the reservation and all “regulations provided for the government of trade and intercourse with Indian tribes...” Additionally, Finney filed a bond for the “penal sum” of \$10,000 which would be forfeited if he broke any laws on the Osage Reservation.¹⁵⁷ Due to the still limited financial resources at tribal members' disposal,

¹⁵⁶ Mathews, 713.

¹⁵⁷ Miles, “Osage Agency, Ind. T., September 21, 1881,” 86; “An Act to Regulate Trade and Intercourse with the Indian Tribes, and to Preserve Peace on the Frontiers,” Chap. 30, May 19, 1796, 4 Stat. 1; “License to Trade with Indians,” Box 2, File 20, Finney Collection, WHC.

Gibson approved a minimal number of trading licenses. Those denied trading licenses gathered along the northern perimeter of the Osage Reservation “most earnestly” desiring to trade with the Osages.¹⁵⁸

Individual Osages migrated towards the Kansas border to trade with unsanctioned individuals for two reasons: lower-priced goods and unfettered access to alcohol. With few traders within the Osage Reservation, price competition simply did not exist, leading some tribal members to seek better deals than they could receive from licensed general stores. However, the most significant draw came in the form of alcohol. Selling alcohol within Indian Territory remained illegal, so a “contraband” industry developed along the state borders and surreptitiously within reservations.¹⁵⁹ Agent Beede reported many Osages traveled to the Kansas border to negotiate deals but frequently returned “home demoralized, dissatisfied, and well prepared to breed dissatisfaction throughout the tribe.” Agency employees expressed dismay since they could not prevent this particular loophole. While agency employees said alcohol consumption undid the “civilization” process, it is more likely they resented Osage wealth and the fact that tribal members sought alternative trading opportunities. Even though some tribal members engaged in trade with their Kansan neighbors, many Osages who did not have the means to travel to the reservation borders took advantage of the licensed traders due to their convenient location.¹⁶⁰

Tribal members viewed many of the early traders as decent men. Men like Thomas Finney, Frank Florer, and Fred Drummond came to the reservation to conduct business and were “known for [their] fair dealing with the Osage.”¹⁶¹ Tribal members who built their homes in the

¹⁵⁸ Beede, “Osage Agency, Indian Territory, August 20, 1877,” 90.

¹⁵⁹ Potter, “Osage Agency, Ind. T., July 24, 1888,” 101.

¹⁶⁰ Beede, “Osage Agency, Indian Territory, August 20, 1877,” 91.

¹⁶¹ Smith, *Big Bluestem*, 175.

1880s worked directly with individual traders to order supplies, and in many cases, the traders supplied laborers to construct Osage homes and outbuildings. Arrangements such as these allowed tribal members and businessmen to develop intrinsically linked relationships. With the increased growth of the leasing economy, more traders arrived, and by 1896, twenty-one separate licensed traders operated throughout the Osage Reservation.¹⁶² After the turn of the century, the rapid economic growth and the influence of the Osages led to the establishment of 221 businesses in 1905: including, “4 banks, 33 general stores, 17 hotels and restaurants, 10 livery stables, 7 lumber yards, 9 blacksmith shops, 5 meat markets, and 126 in other vocations, such as contractors, physicians, painters, etc.”¹⁶³

When traders first established their businesses, Osages kept track of their purchases and debts by making notches on sticks.¹⁶⁴ The informal way of conducting business allowed tribal members access to much-needed goods and food, but this method of extending credit had the potential to cause serious harm to individuals as it seemed as though they had “unlimited credit with the traders.”¹⁶⁵ The first traders in the area happily extended credit since it helped them form strong trading relationships based on reciprocity which harkened back to the colonial era and the types of trade Osages conducted with European emissaries. Agent Mitchser reported the Osages typically were “jealous of his honor and integrity. He will pay his debts so far as his means allow and will not keep a dollar in his pocket when asked for it by a creditor...” To the Osages, trade strengthened relationships since both parties had to commit to honest trading tactics. Throughout the Osages' history they utilized commitment, reciprocity, and honest

¹⁶² Miles, “Report of Osage Agency, Oklahoma, September 1, 1891,” 353; Freeman, “Report of Osage Agency, Oklahoma, August 18, 1894,” 242; Freeman, “Report of Osage Agency, Pawhuska, Oklahoma, August 18, 1897,” 238; Baird, 62; Frantz, “Report of Osage Agency, Pawhuska, Oklahoma, August 25, 1904,” 298.

¹⁶³ Frantz, “Report of Osage Agency, Pawhuska, Oklahoma, August 16, 1905,” 308.

¹⁶⁴ Baird, 62.

¹⁶⁵ Potter, “Osage and Kaw Agency, August 1, 1887,” 84.

negotiations to create and strengthen relationships with those outside the tribal community. These relationships formed the foundation of the Osages' relational web. Tribal members crafted the same relationships with modern traders, which retained tribal values and practices that had existed since the colonial period.¹⁶⁶

Yet as more traders entered the Osage Reservation, fewer people wanted to form lasting relationships, let alone accept delayed profits. Rather some whites "levied a sort of blackmail upon these people [Osages with outstanding debts] in the shape of exorbitant interest on borrowed money, and have thus gained control of some of the best lands on the reservation." One noteworthy example occurred to an unnamed tribal member who purchased a team of horses for \$125. He agreed to pay the note over three months at ten percent interest, but he could not pay his creditor at the end of the term. The creditor sold the note to a "firm of money lenders" in Caney, Kansas, who charged an additional four percent interest. When the debt rose to \$250, the money lenders convinced the man to give them a lease to 110 acres of his farm, including some fertile "bottom lands and a large pasture," for a period of ten years. Agent Freeman estimated the requested lease would have cost \$3,300 to lease for that length of time, but these men attempted to obtain it for the cost of a team of horses utilizing blackmail and deceit. Fortunately, the Osage Agency did not approve the lease, and the plot was exposed, but as many tribal members operated within old trading agreements, some whites tried to force Osages into a compromised position.¹⁶⁷

As the leasing economy grew, unfortunately, so did the accrual of debt. Even though tribal leaders created a system that allowed for the accumulation of wealth for tribal members, by the turn of the twentieth century, agency employees reported the Osages collectively owed

¹⁶⁶ Mitscher, "Report of Osage Agency, Pawhuska, Oklahoma, August 22, 1903," 271.

¹⁶⁷ Freeman, "Report of Osage Agency, Pawhuska, Oklahoma, October 2, 1896," 261.

\$500,000 to traders residing within the reservation. Although exact figures did not exist, the Osage Agent estimated the tribe owed a similar amount to traders operating along the reservation borders. The exorbitant debt threatened to overwhelm the Osage Nation, mainly due to the costly court and lawyer fees many paid during the process of debt collection.¹⁶⁸ It became readily apparent to agency employees that unlimited credit extended by traders led the Osages into the trap of “demoralizing debt.”¹⁶⁹ This created a cyclical process of indebted individuals returning to their creditors for more goods, but without the ability to pay, traders “charged such prices for the goods as [they] thought advisable or as would justify him in carrying the account.”¹⁷⁰ Tribal members soon found themselves trading with individuals who would rather take from the Osages and frequently responded to their debt by arbitrarily increasing the price of goods. The Tribal Council originally asked the Osage Agency for the opportunity to include traders within their relational web so they could secure better trade goods than the government rations. They wanted to expand the tribe’s influence in the area, but they soon realized many traders only wanted to profit from the Osages. Business owners came to the area to seek their own fortunes, and they operated under the assumption that all deals were simply transactional. At the same time, the Osages expected to establish a partnership that would result in another beneficial relationship being added to their web.

Licensed Indian traders, realizing they would not be able to stay in business with so many outstanding debts, enlisted the aid of Congress. They requested Congress allocate Osage trust money to pay the outstanding and growing debts. In response, Osages argued the traders kept

¹⁶⁸ Freeman, “Report of Osage Agency, Pawhuska, Oklahoma, August 18, 1897,” 239; Mitscher, “Report of Osage Agency, Pawhuska, Oklahoma, August 21, 1900,” 339; Freeman, “Report of Osage Agency, Pawhuska, Oklahoma, October 2, 1896,” 261.

¹⁶⁹ Bishop Henry C. Potter address in *Report of the Twentieth Annual Lake Mohonk Conference on the Indian and other Dependent Peoples* (Lake Mohonk Conference, 1903), 16.

¹⁷⁰ Ripley, “Report of Indian Trade Supervisor, Osage Agency, Pawhuska, Oklahoma, August 15, 1903,” 274.

“unreliable” books and “their prices [were] excessive.”¹⁷¹ Congress responded to both parties by passing legislation that allowed the Secretary of Interior to conduct an “audit, and pay the Osage licensed traders without the consent of the Indian, the accumulated indebtedness upon the books of such traders.”¹⁷²

Auditing the accounts of traders seemed necessary due to the increasing demands of the traders. In fact, as correspondence continued about the issue, traders slowly increased the outstanding debt owed to them. By 1902, traders claimed the Osages collectively owed them over two million dollars in outstanding payments, which dramatically exceeded the initial estimate of \$500,000 by agency employees. Ethan Allen Hitchcock, the Secretary of Interior, “exhaustively examined” the records and quickly determined the amount demanded by traders was indeed excessive. He concluded his audit by adjusting the balances “upon the basis of a fair profit upon the goods which have been sold by such traders to such Indians.” Hitchcock presented his findings to Congress, reporting only 584 tribal members owed \$429,596 or about \$735 per person, equaling about two-thirds less than what traders had claimed. The audit supported tribal members’ claims that countless traders frequently raised prices just for their Osage customers.¹⁷³

As the number of licensed traders grew on the Osage reservation, many believed trading within the reservation borders was significantly safer than if they visited traders located outside the bounds of the reservation and subsequently the regulations of the Office of Indian Affairs.¹⁷⁴ Being a licensed trader meant proprietors had to price their goods in accordance with the law and

¹⁷¹ Potter address in *Report of the Twentieth Annual Lake Mohonk Conference*, 16.

¹⁷² Brosius, “Impressions from a Summer’s Tour,” 124; Chap. 832, March 3, 1901, 31 Stat. L. 1058 in Barney, 30-32.

¹⁷³ Potter address in *Report of the Twentieth Annual Lake Mohonk Conference*, 17; Chap. 832, March 3, 1901, 31 Stat. L. 1058 in Barney, 30-32.

¹⁷⁴ Freeman, “Report of Osage Agency, Pawhuska, Oklahoma, October 2, 1896,” 261.

display their prices “conspicuously.”¹⁷⁵ Theoretically, these measures prevented the blatant price inflation of goods. However, stores located off the reservation charged varying prices since they did not have to abide by regulations from the Osage Agency. Regardless of the “good-character” clauses and additional rules to prevent graft from traders, Osages frequently reported price inflation. One accusation that made its way to the Agency office stated one pound of beef would typically sell for six to ten cents per pound, but on the Osage reservation was priced at 20 cents per pound.¹⁷⁶ One agency employee downplayed the rate of price inflation that occurred, but he did admit that “a stronger inclination [existed] on the part of the traders to mark goods above the regulation...” White traders, particularly those who established their businesses as the Osages grew their wealth such as Chester Yake, N. K. Akers, P. H. Harris, and A. W. Nash, grew envious and were eventually tempted to procure more of the Osages money for themselves.¹⁷⁷

As a result of the accumulated debts, Congress created legislation that set clear parameters for the Osage Nation and traders operating therein. According to Statutory Law 1058, Osage citizens would no longer be held responsible for any debts totaling over \$100,000, eliminating the possibility of similar indebtedness in the future. Lawmakers also stressed the importance of adequately vetting individuals who wanted to trade with the Osages. Although the Office of Indian Affairs established new regulations to govern future trade, the debt accrued by the Osages still needed to be settled.¹⁷⁸ Many believed the Osages should be held responsible for paying their own debts so they could learn “the duties and responsibilities of citizenship.”

Others firmly believed the federal government should not authorize the payment of the nearly

¹⁷⁵ Freeman, “Report of Osage Agency, Pawhuska, Oklahoma, August 18, 1897,” 239.

¹⁷⁶ Ripley, “Report of Indian Trade Supervisor, Osage Agency, Pawhuska, Oklahoma, August 18, 1902,” 296.

¹⁷⁷ Ripley, “Report of Indian Trade Supervisor, Osage Agency, Pawhuska, Oklahoma, August 15, 1903,” 274; Dickerson, 33, 38, 111.

¹⁷⁸ Chap. 832, March 3, 1901, 31 Stat. L. 1058, in Barney, 30-32.

\$500,000 bill from the Osages trust fund held by the Treasury because they could not accept the liability for collecting a domestic dependent nation's debt. Congressional members solved this confounding situation by utilizing the Osages' profits from their leasing economy to pay their outstanding balances.¹⁷⁹

By treating the debt from traders as a collective burden, government employees received permission from Congress to seize revenue from grazing leases to pay the remaining adjusted balances.¹⁸⁰ This provided an immediate answer to the problem but kept the tribe's per capita payments intact as tribal members continued to live comfortably from the revenue derived from the interest of their federal trust. In one year, the proceeds from grazing leases eliminated "nearly one half the indebtedness."¹⁸¹ Another payment of \$84,711.46 from grazing proceeds in 1903 narrowed the debt to around \$142,000. The final payment, in 1904, eliminated all outstanding debt and allowed the Osages to move forward debt-free.¹⁸²

Once the exorbitant debt had been swiftly eliminated, to the credit of the Osages' leasing economy, government employees and many "Friends of the Indians" considered various strategies to prevent the accumulation of debt once more. When the Osages relocated to their Indian Territory reservation, Agent Isaac T. Gibson carefully regulated the activities of the first traders within the reservation. Even though these initial traders did not have permanent establishments among the Osages, Gibson ensured they complied with the agency rules by standardizing prices. Gibson even issued what he termed "credit cards" that listed the "limits for credit for each [Osage] family." Whenever a tribal member wished to purchase goods on credit,

¹⁷⁹ Brosius, "Impressions from a Summer's Tour," 124.

¹⁸⁰ Mitscher, "Report of Osage Agency, Pawhuska, Oklahoma, August 21, 1902," 294.

¹⁸¹ Potter in *Report of the Twentieth Annual Lake Mohonk Conference*, 17.

¹⁸² Ripley, "Report of Indian Trade Supervisor, Osage Agency, Pawhuska, Oklahoma, August 15, 1903," 274; Mitscher, "Report of Osage Agency, Pawhuska, Oklahoma, August 22, 1903," 270; Frantz, "Report of Osage Agency, Pawhuska, Oklahoma, August 25, 1904," 297.

traders used the cards to ensure the individual had enough remaining credit. This system was rudimentary at best and relied on the honesty of traders. Subsequent agents did not have the time to oversee Osage spending or did not desire to engage in such tedium, which resulted in the system of credit slowly falling out of use after Agent Gibson's departure in 1876. Nearly every federal employee agreed debt needed to be eliminated from the Osages' lives since it tempted many to become "a suppliant customer, glad to secure rations on any terms and at any price." In accordance with Agent Gibson's effective supervision in the past, the Office of Indian Affairs approved the hiring of H. C. Ripley as Trade Supervisor.¹⁸³

The new Trade Supervisor believed his position chiefly consisted of stipulating how the Osages spent their money, where they traded, and what they purchased, which must have caused tribal members to feel as they had been punished for the traders' misdeeds. After crafting a leasing economy that enabled tribal members to participate in capitalism on their own terms and living in ways they believed best fit their cultural ideals, this must have been a great disappointment. This feeling no doubt grew as Ripley further developed his role through the implementation of an updated form of Gibson's original credit system. Ripley's opinions of the Osages closely aligned with common racist beliefs that Native peoples were incapable of handling their own affairs. In fact, Ripley's first report to the Commissioner of Indian Affairs stated, "It is the experience of everyone who has been thrown in contact with these Indians that the less cash the Indian has the better he is off." However, the Osage Tribal Council had demonstrated time and again how they protected and cared for their people. Yes, they faced extreme debt to local traders, but tribal leadership maintained that would not have occurred if the traders had dealt fairly and worked within the tribe's practices of reciprocity.¹⁸⁴

¹⁸³ Mathews, 713; Mitscher, "Report of Osage Agency, Pawhuska, Oklahoma, August 21, 1900, 339; Potter, 17.

¹⁸⁴ Ripley, "Report of Indian Trade Supervisor, Osage Agency, Pawhuska, Oklahoma, August 18, 1902," 295.

The most significant alteration to Osage life during the early 1900s came from Ripley's creation of individual and specialized cards that tracked the available credit for each tribal member. He firmly believed that without this more regulated credit system, tribal members would have again fallen victim to high prices, and many would have continued to purchase "goods greatly in excess of their ability to pay." Ripley approached the issue of Native held debt from two directions: a top-down government approach limiting what Osages could spend and a local approach that allowed agency employees to oversee spending in real-time. Both strategies significantly hampered Osage sovereignty for several years. Fortunately, the Osage Allotment Act of 1906, negotiated by the Tribal Council, redefined these rules and significantly lessened the restrictions upon tribal members, but before tribal members could reform the system, they had to work within the restrictions placed upon them.¹⁸⁵

Congress supported Ripley's proposal by passing legislation that restricted tribal members from accruing debt in excess of sixty percent of their upcoming annuity payment. Congress allowed individuals to purchase items on credit since some goods might need to be paid out over time, such as farming implements or livestock. However, Congress prohibited the accrual of debt over what could be paid off at the time of the next annuity payment, which, as Ripley reported, "prevents them [tribal members] from using [money] as recklessly as formerly."¹⁸⁶ Licensed traders were notified of the rule changes, and government officials warned that if they sold goods on credit exceeding sixty percent of the upcoming payment, then the debt would be voided. Although this rule infringed on the Osages' ability to manage their own funds, they still had the option of trading outside the reservation since those traders did not have to comply with the same federal mandates. Many agency employees believed this loophole

¹⁸⁵ Ibid.

¹⁸⁶ Ibid.

would continue to erode their ability to control Osage spending habits, and indeed it did. Tribal members who could wait for goods or travel to receive their supplies certainly took advantage of restriction free trading. As Osages faced restrictions to their agency and individual liberties, particularly how and with whom they could trade, they sought new ways to evade the increasingly domineering control of the local agency employees. Osages secured new trading relationships outside the reservation bounds through negotiation and creating alliances with traders just across their borders. At times these arrangements proved risky, but many tribal members preferred handling their own affairs rather than blindly accepting agency policies.¹⁸⁷

Osage credit cards, as they became known, contained financial facts specific to the individual card holder. At the quarterly payment distribution, an agency employee wrote the amount of the payment on the card, and traders were instructed to assume the next payment would remain roughly the same as the one most recently distributed. Space was reserved underneath the last quarterly payment amount for traders to record purchases made on credit and any loans given to the individual. Agency employees held traders responsible for determining if the tribal member before them had enough available credit to conduct business. When the next annuity payment arrived at Pawhuska, agency employees distributed checks to each Osage. Tribal members then stood in line at the “clearing house,” where employees reviewed all accounts while the Trade Supervisor oversaw the activities. Agency employees paid outstanding debts to traders at the clearing house, and afterward, the individual tribal member received the remainder of the payment in cash. This program successfully reduced the debt held by individual Osages. Within the first quarter of the government’s paternalistic guardianship, tribal members accumulated \$85,558.23 in debt to licensed traders. After the annuity payment, the

¹⁸⁷ Newman, 185-186; Ripley, “Report of Indian Trade Supervisor, Osage Agency, Pawhuska, Oklahoma, August 15, 1903,” 274; Chap. 832, March 3, 1901, 31 Stat. L. 1058 in Barney, 30-32.

remaining balance equaled \$74.51. Exceedingly proud of his accomplishments, Ripley reported Osages felt freer after experiencing their debts cleared after every payment. This program took away the autonomy of individual Osages as it was compulsory for everyone to participate, but it also severely hampered the attempts of traders to raise the price of goods. Additionally, the Osage Agency reported interest rates on personal loans approved by traders had been reduced by one-half through this process. While the Osage Nation appreciated being able to purchase goods or procure loans at reasonable rates, the fact that Congress limited their individual rights to engage in the capitalistic system upset tribal members since they could not exercise their own autonomy.¹⁸⁸

With the increase of Osage wealth and traders within the reservation, the average white settler grew even more interested in the Osage's land and resources. Tribal members often hired whites to perform manual labor tasks, which agency employees initially supported since they believed "industrious neighbors" served as a beneficial influence for the Osages.¹⁸⁹ However, as more whites tried to access their lands, tribal members quickly recognized the need to regulate the number of non-tribal members within their reservation. To protect the Nation and their people, the Tribal Council passed an act requiring all non-tribal citizens, apart from licensed traders and agency employees, to pay \$1 per month for a permit to reside within the Osage Reservation. Additionally, the Tribal Council passed an act "To Legalize Intermarriage with White Men" to protect women from the potential ill intentions of self-professed "loving spouses." This act required white men interested in marrying an Osage woman to apply for a marriage license costing \$20 and take an oath in support of Osage laws and constitution. Those

¹⁸⁸ Ripley, "Report of Indian Trade Supervisor, Osage Agency, Pawhuska, Oklahoma, August 15, 1903," 274; Freeman, "Report of Osage Agency, Pawhuska, Oklahoma, October 2, 1896," 261; Ripley, "Report of Indian Trade Supervisor, Osage Agency, Pawhuska, Oklahoma, August 18, 1902," 295.

¹⁸⁹ David, "Osage Agency, Indian Territory, September 1, 1886," 133; Miles, "Osage Agency, August 20, 1885," 91.

who refused were promptly “removed without the limits of the Osage Nation as an intruder.” With individual marriage licenses costing over \$600 in modern currency, it is no surprise that this slowed the rate of interracial marriages and created a tidy profit for the tribe in addition to their other active enterprises. In 1899 alone, the Osages received \$7,000 from marriage license fees. To be clear, the Tribal Council never intended this law to serve as another revenue source – they wanted to ensure women, valued members of the tribe, were protected from the onslaught of men who saw them simply as a means to gain access to tribal wealth.¹⁹⁰

The Tribal Council once again acted quickly and decisively in the implementation of protective laws. Census taking measures were sporadic and often incomplete, but the Osage Agency estimated around 10,000 to 15,000 whites resided on the reservation in 1905. To a Tribal Nation consisting of less than 3,000 members, this was an incredible influx of residents to the reservation. The rapid influx of white settlers among Native Nations in the late nineteenth century was not unique to the Osages. White settlers came to Indian and Oklahoma Territories to claim “free” land for themselves and their families regardless of Native Nations and reservation boundaries. The increase of settlers complicated the lives of Native peoples and practically guaranteed Oklahoma would soon achieve statehood.¹⁹¹ Agent Freeman lamented the arrival of white settlers due to the avarice they readily displayed, stating,

“Then, too, the wealth of the Osages seems to have excited the cupidity of a number of people, some of whom were formerly traders on the reservation and still seem to regard it as their personal property. They seem to think a foothold on the Osage

¹⁹⁰ Mitscher, “Report of Osage Agency, Pawhuska, Oklahoma, August 21, 1900,” 339; Hicks, 13; “To Legalize Intermarriage with White men, Article IX, Sec. 1 in Fitzpatrick, 90; Pollock, “Report of Osage Agency, Pawhuska, Oklahoma, August 16, 1899,” 296.

¹⁹¹ The rapid influx of white settlers among Native Nations in the late nineteenth century was not unique to the Osages. White settlers came to Indian and Oklahoma Territories to claim “free” land for themselves and their families regardless of Native Nations and reservation boundaries. The increase of settlers complicated the lives of Native Peoples and practically guaranteed Oklahoma would soon achieve statehood. For a more descriptive and wholistic view of the increased population and path to statehood, see Alice Marriot and Carol K. Rachlin, *Oklahoma: The Forty-Sixth Star* (New York: Doubleday, 1973) and McReyonlds. Frantz, “Report of Osage Agency, Pawhuska, Oklahoma, August 16, 1905,” 306.

Reservation has more money in it than a Klondike placer, and they are seeking to regain their jobs, entirely in the interests of the Indians, of course by inviting the Indians to frequent conferences at their headquarters, Cleveland, Okla., and by all other means.”¹⁹²

Freeman regularly expressed his disgust for the “swarm of persons” who came to the Osage Reservation due to the criminal element that had become all too familiar. Like many agents before him, he saw various forms of criminal activity increase within and outside the reservation boundaries since the Osages first moved to Indian Territory. However, the more money the Osages cultivated for themselves; the more individuals desired “by hook or crook to divert this money into their own pockets.”¹⁹³

Many white settlers came to the Osage Reservation simply seeking opportunities to farm, raise cattle, or provide support services to tribal members. Office of Indian Affairs employees described those who disagreed with the restrictions of the Osage Agency as “more intelligent, more vicious, and perhaps more determined than elsewhere.” The Osages’ relational web relied on mutually beneficial external relationships to provide goods, services, and economic opportunities for their people. The development of their leasing economy allowed individuals to enter the Osages sphere of influence and supported tribal members as they recovered from their relocation to Indian Territory. As the tribe garnered more wealth, more white neighbors wanted to reap the rewards of a relationship with the Osage Nation; however, they did not want to participate in the reciprocal nature of the Osages’ relational web. As more whites pushed to develop relationships with the tribe, the Tribal Council accepted new friends and allies into their external relational web, but they continued to rely on their internal relationships to protect one another from dangerous enemies.¹⁹⁴

¹⁹² Freeman, “Report of Osage Agency, Pawhuska, Oklahoma, August 18, 1897,” 237.

¹⁹³ Freeman, “Report of Osage Agency, Pawhuska, Oklahoma, October 2, 1896,” 261.

¹⁹⁴ Pollock, “Report of Osage Agency, Pawhuska, Oklahoma, August 29, 1898,” 242.

The Osage Hills had long been regarded as a hideout for known criminals and rife with lawlessness. Public perception had not changed even after the Osage Nation moved to Indian Territory nor after the establishment of their leasing economy, particularly as infamous gangs, such as the Dalton Gang, used the rural areas to escape law enforcement. While many Americans relished stories about the outlaws that resided in the Osage Hills, tribal members dealt with various forms of criminal activity throughout their reservation. These activities ranged in severity from murder to the theft of natural resources. One crime that continually plagued tribal members came in the form of illegal timber harvesting. Walnut timber was a valuable commodity for the establishment of towns throughout Indian Territory, and the loss of trees on the Osage reservation meant they had less firewood and building materials for their own people. Compared to more serious issues, though, illegally harvested timber proved to be the least of their worries.¹⁹⁵

As early as 1894, people targeted the most vulnerable Osages for their money: children. Orphaned children needed guardians to supervise their financial accounts and any claims their parents may have had in their name. Some whites realized they might be able to easily exploit the situation to steal under the guise of magnanimity. One agent reported over thirty orphans had their estates managed by whites who had been appointed to oversee their affairs until they reached adulthood, but many were described as “a ring of so-called guardians, who pocketed the money, from which the orphans derived but little benefit.” While some gained access to Osage money via a guardianship, some criminals attended annuity payment days with forged names of individuals so they could steal annuities directly from the source. This worked best with individuals they knew could not attend on the payment days, so there could be no direct

¹⁹⁵ Dempsey, “Report of Osage Agency, Oklahoma, September 5, 1893,” 256; Freeman, “Report of Osage Agency, Oklahoma, August 18, 1894,” 243-44; Potter, “Osage Agency, Ind. T., July 24, 1888,” 101.

confrontation to draw attention to their plan. Individuals who had gone to boarding schools, been sick and homebound, or traveled away from the reservation for vacations or visiting family and friends found themselves at risk from this type of fraud. An unnamed white man claimed Fred Penn's annuity payment for himself while Penn attended the Carlisle Indian School in Pennsylvania. Since agency employees knew Penn could not have collected his annuity in person, the Office of Indian Affairs reissued his payment. Agency employees quickly sorted out Penn's case, but other tribal members found their annuities had been stolen and held for ransom. Investigations regarding annuity payments occurred on a routine basis, but non-Native individuals still tried their luck at securing any part of Osage money they could.¹⁹⁶

With the increase of crime within and around the Osage Reservation, some tribal members grew increasingly anxious. Incidents like the murder of Joe Roberts, who was likely killed for the fifty dollars his housemate, Pun-Kah-Wah-Tian-Kah, had given him earlier in the day, alarmed everyone. The Osage Tribal Council passed an act containing harsh punishments for specified crimes and offenses, including murder; however, this document only governed tribal members and people who married into the tribe. Those who lived on the reservation via trading licenses or farming and grazing leases were not bound by the same legal parameters, primarily since legal jurisdiction remained a confusing issue prior to statehood.¹⁹⁷ This led many Osages to feel "terrorized" and unwilling to "testify against [their offenders]."¹⁹⁸ Although

¹⁹⁶ Freeman, "Report of Osage Agency, Pawhuska, Oklahoma, October 2, 1896," 261-62.

¹⁹⁷ Even though more laws and rules governed criminal jurisdictions after statehood, it is important to note that jurisdictional questions concerning Native lands remain. In modern day Oklahoma, the Supreme Court decision in *McGirt v. Oklahoma* has once again raised the issue of jurisdiction of criminal cases within Indian Country. Many resulting issues derived from the landmark McGirt ruling will continue to be determined for years to come. *McGirt v. Oklahoma*, 140 S. Ct. 2452 (2020). Dempsey, "Report of Osage Agency, Oklahoma, September 5, 1893," 256; Lamb, 62; "An Act Relating to Crimes and Punishments," Article IV in Fitzpatrick, 66-83.

¹⁹⁸ Freeman, "Report of Osage Agency, Oklahoma, August 18, 1894," 243.

crime increased, the Osage Nation did not sit idly by and watch silently as the offenses accumulated – they actively worked to maintain the safety of their people.¹⁹⁹

The 1881 Osage Constitution established a tribal police presence within the reservation. Initially, Osage law enforcement efficiently maintained peace throughout the reservation, but their job became more difficult as more non-tribal members “drifted into this country.”²⁰⁰ They soon felt overrun by the influx of individuals and the resulting crime in the area. Illegal alcohol sales and horse thefts dominated law enforcers' days, and many served an important role as guards supervising the quarterly annuity payments for tribal members. Due to a combination of new rules from the Osage Agency, including the banning of “outsiders” during the disbursement of annuity payments, and the increased presence of Osage police, by the late 1890s, crime decreased significantly.²⁰¹

As the new century approached, the Osages' police presence continued to improve. An example of the attentiveness to strangers on the reservation came from H. L. Wood, a reporter touring the Osage oil fields. Upon entering the reservation, Osage constables stopped him thinking, “I was trying to sell something or to collect a bill or do some other kind of trading and flagged me several times with the admonition that if I didn't watch my step they'd run me in...I stood pat on the bluff that the atmosphere, so far as I was able to ascertain, had not yet been allotted or reserved, and that as long as I did nothing but breathe I was not an intruder. That

¹⁹⁹ It is interesting to note that the Osages closest neighbors, the Kaws, did not experience the same sort of interest from outside parties. Despite residing on land purchased from the Osages, developing their own grazing and farming leases, and ultimately selling oil leases, they never saw the same profits as the Osages. Due to their limited economic status, “their country is not subjected to the same troubles, whiskey peddlers, knowing full well where there is the most money, readily following those persons having the most cash.” Once again, only this time for the benefit of the Kaw Nation, they were overlooked for the most prosperous Osages.

²⁰⁰ Miles, “Report of Osage Agency, Oklahoma, August 27, 1890,” 190.

²⁰¹ Freeman, “Report of Osage Agency, Oklahoma, August 18, 1894,” 243; Miles, “Osage Agency, Ind. T., September 21, 1881,” 87; Freeman, “Report of Osage Agency, Oklahoma, July 31, 1895,” 256; Freeman, “Report of Osage Agency, Pawhuska, Oklahoma, October 2, 1896,” 260.

experience has always kind of prejudiced me against trying to do anything in the Osage reservation.” Once oil development started, and especially after statehood, the presence of law enforcement grew due to both tribal and county police officers patrolling the area.²⁰²

Even with an increased police and agency employee presence, alcohol sales remained the most frequent problem within the Osage reservation. Soon after the Osages leasing economy started, reports of whiskey being sold on the reservation were “alarmingly on the increase.” Agency employees reported, “whisky peddlers swarm around the borders of the reservation like buzzards.” Deals were made at night, and after they had sold “their liquid death,” the men leave the reservation by morning.²⁰³ Unsanctioned trading along the borders continued to grow as the tribe gained more influence and wealth in the region. In an attempt to stop the sale of alcohol in the 1870s, Agent Cyrus Beede warned that if trade with Kansans and Osages could not be stopped, the Osages may revolt in an “Indian outbreak.”²⁰⁴ This outlandish statement, likely an attempt to scare Kansan settlers away from any dealings with the Osages, was handily ignored, and accounts of “vagabond white people” and “loafers and hangers-on” continued to pepper annual reports to the Commissioner of Indian Affairs for the remainder of the nineteenth century.²⁰⁵

For those attempting to “Christianize” and “civilize” the Osages, witnessing the continued influx of alcohol onto the Osage Reservation caused great concern. Agent Miles argued tribal members had become “indolent in their habits, and addicted to the use of ‘fire water.’”²⁰⁶ Agent Potter grew concerned that the criminal element, those he considered “little

²⁰² H. L. Wood, “Our Government’s Biggest Gambling Center at Pawhuska,” *National Petroleum News* XII, no. 6 (February 11, 1920), 38; Frantz, “Report of Osage Agency, Pawhuska, Oklahoma, August 16, 1905,” 309.

²⁰³ Miles, “Report of Osage Agency, Oklahoma, August 30, 1892,” 392.

²⁰⁴ Beede, “Osage Agency, Indian Territory, August 20, 1877,” 90-91.

²⁰⁵ Miles, “Osage Agency, October 31, 1889,” 193; Miles, “Report of Osage Agency, Oklahoma, September 1, 1891,” 354.

²⁰⁶ Miles, “Report of Osage Agency, Oklahoma, August 30, 1892,” 391.

short of desperadoes,” would negatively influence the Osages and undo any of the “civilizing” progress that had been completed among tribal members.²⁰⁷ Knowing the temptation of alcohol to “a poor ignorant Indian,” Agent Freeman did not recommend jailing a drunk Osage since whites were the real criminals responsible for the degradation of the tribal member. However, the agency Trade Supervisor carefully watched tribal members deemed “addicted to excessive drinking” to ensure their families were cared for, their money was not spent all at once, and they were not being taken advantage of by criminal elements.²⁰⁸

Agency employees knew whites selling or trading alcohol with Osages did not know or care to know the laws of the reservation or concern themselves with the safety of the Osages consuming unregulated alcohol. Thus, the Osage Agency continually waged war against liquor trafficking. By 1892, the federal government came to their aid by enacting stricter laws related to the sale of alcohol to American Indians. These laws applied to all Native Americans throughout the United States but acted as a severe deterrent for bootleggers among the Osages. The new laws made it illegal for anyone to sell alcohol to Indians or to “introduce” alcohol within Indian Country. Prior to these laws, both the seller and consumer of alcohol were subject to punishment; however, agency employees realized they needed to stop punishing the consumers and focus their attention on the criminals. The new federal laws aimed to increase punishments for the sale of alcohol and reinforce the act as a federal offense.²⁰⁹ By 1907,

²⁰⁷ Potter, “Osage and Kaw Agency, August 1, 1887,” 85.

²⁰⁸ Freeman, “Report of Osage Agency, Oklahoma, July 31, 1895,” 256; Ripley, “Report of Indian Trade Supervisor, Osage Agency, Pawhuska, Oklahoma, August 19, 1905,” 313.

²⁰⁹ The legal changes and the removal of punishments for Osages who purchased alcohol can be seen in the affidavits of Robert Warrior on December 12, 1917. He signed a full confession stating he went to 16 ½ South Boston Street in Tulsa and purchased “two or three quarts of whiskey.” He was arrested and fined for being “drunk and disorderly.” Although he did not reveal the name of the individual he purchased the alcohol from during his trip to Tulsa, an additional affidavit disclosed the name of a liquor dealer in Pawhuska. This whiskey dealer was “a negro by the name of Jim Bridges.” Warrior purchased a quart of “Sunnybrook whiskey” for the hefty sum of \$12.00 (over \$240 in modern currency). Since Warrior named the seller, he was not charged a fine for drunk and

Congress “empowered special officers” to perform search and seizure maneuvers, and in 1912, these individuals were promoted and given the powers of United States Marshals.²¹⁰

The Osage police force and the “special officers” did much to stymie the flow of alcohol, but Cato Sells, the Commissioner of Indian Affairs, thought stricter laws were needed. He encouraged Congress to pass a statute allowing the Commissioner to withhold annual annuity payments at his discretion “as long as there is liquor in reach of the Indians.” Sells withheld one much-needed payment from the Osages, which affected daily business and the wellbeing of everyone on the reservation. Licensed traders and other whites living on the reservation who depended on Osage annuity payments for their livelihood organized and offered a fifty-dollar reward for the arrest of anyone selling alcohol to Indians. When Sells recounted this incident, he relished the fact that “every business man in that locality immediately came to my rescue and when the payment was finally made, Pawhuska was one of the driest towns in the United States.” While Sells believed “touch[ing] the pocket-book of a man” encouraged widespread cooperation in Indian reform, the sale of alcohol to Osages did not stop. Instead, sales shifted towards the reservation borders, where government officials had significantly less influence.²¹¹

With the increase of restrictions against the sale and consumption of alcohol and more patrols throughout the Osage Reservation, fewer reports of liquor sales came to the Osage Agency. Many reformers saw this as a sign of their success in suppressing the Osages' basest

disorderly conduct even though he spent a night in jail. Affidavit of Robert Warrior, December 12, 1917, Box 1, RG 75, Records of the Osage Agency, Records Relating to Law Enforcement, Correspondence 1899-1919 [hereafter referred to as Osage Law Enforcement], NARA-FW. Freeman, “Report of Osage Agency, Pawhuska, Oklahoma, August 18, 1897,” 238; Miles, “Report of Osage Agency, Oklahoma, August 30, 1892,” 392.

²¹⁰ *Federal Indian Handbook*, 386-387, 393.

²¹¹ Quoted material: F. H. Abbott, “The Navajo Indians and the Public Domain,” in the *Report of the Thirty-first Annual Lake Mohonk Conference on the Indian and other Dependent Peoples* (n.p.: Lake Mohonk Conference, 1913), 61. Potter, “Osage Agency, Ind. T., July 24, 1888,” 101; Miles, “Osage Agency, October 31, 1889,” 193; Vaux, “The Pauperism of Riches – An Indian Paradox,” 75; Cato Sells, “Report of the Commissioner of Indian Affairs, Washington, D.C., September 30, 1918,” in the *Annual Report of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1918), 75-80.

desires, but young and unmarried Osages continued to spend their money on alcohol and parties. These individuals saw the laws of a dry reservation as an assault on their individual liberties. They desired to keep criminals out of their lands, but that did not mean they supported living in an area that limited their freedoms. As the Osage Nation earned more money from farming, grazing, and by the 1910s, oil leasing, many chose to spend their money off the reservation.

Ralston, Oklahoma, became one of the most frequented places, particularly for those looking for alcohol, gambling, and other recreational activities forbidden on their lands. Located just across the Arkansas River from Grayhorse and Fairfax, Osages easily accessed the many saloons located there. Since it was illegal to sell alcohol to Indians even outside reservation boundaries, Ralston saloons used secret rooms, dumb-waiters, and elaborate payment systems that ensured tribal members never saw the individuals who sold them the alcohol so no one could be implicated for the crime. Osages who chose to participate in these activities believed they acted appropriately since they exercised their freedom of choice and spent their money to live the lifestyles they desired. Tribal members wondered why they should be restricted from drinking alcohol when local whites could do so without molestation from the law. On the other hand, the actions of “deplorable” Indians disgusted agency employees who believed the Osages had “become so debauched as to make a practice of bartering their virtue for liquor.”²¹² They reported dozens of drunk Osages in the streets of Ralston practically naked from having sold their clothing for alcohol. The frustrations of agency employees likely led to these overly dramatized accounts, but in the end, the sensationalized stories supported the agency’s continued demands for monetary and personnel support from the Office of Indian Affairs.²¹³

²¹² Frantz, “Report of Osage Agency, Pawhuska, Oklahoma, August 16, 1905,” 309.

²¹³ Ken Anderson, “Frank Frantz, 1906-1907,” in *Oklahoma Governors 1890-1907: Territorial Years*, Leroy H. Fischer, ed. (Oklahoma City: Oklahoma Historical Society, 1982), 132; Sam Tulk to J. Geo. Wright, December 12, 1917, Box 1, RG 75, Osage Law Enforcement, NARA-FW.

At the turn of the twentieth century, Osage tribal members found themselves with a steady disposable income. They utilized this income to determine how they wanted to live their lives. Some invested in additional land, larger homes, better furniture, visiting and hosting friends and family for ceremonial and cultural feasts. Some traveled to nearby towns, such as Ralston, Ponca City, Pawnee, or Bartlesville, to experience temporary freedom from their local agency officials while they traded and imbibed in alcohol. Others decided to travel further distances, such as Kansas City or Joplin, Missouri. Joplin became a popular choice since Osages could “purchase liquor over the bar same as a white man.” There did not seem to be as much hesitation to sell alcohol to Native Americans outside Oklahoma due to limited repercussions. In fact, Joplin was described as a “principal distributing point for violators of the liquor law for many years and lately Osage Indians have learned that they can procure whiskey at this point without trouble.” Due to the increased number of Osages traveling to Joplin, Special Officer Castle suggested placing a “liquor suppression officer” in the area to monitor activities. It is not clear if the Office of Indian Affairs dispatched an officer to the Joplin area, but it is essential to note the willingness of local agency employees to regulate every aspect of Osage tribal members’ lives even as they traveled away from their jurisdiction. As the oil industry continued to develop, more and more Osages sought relief from the continued scrutiny from the Osage Agency, federal employees, and leering whites, by leaving the state for extended periods of time.²¹⁴

Joplin may have been the closest hotspot for tribal members to secure alcohol, but as Luther Harvey discovered, Colorado Springs soon became a destination for Osages. Harvey,

²¹⁴ Sam W. Tulk to J. George Write, September 1, 1916, *Ibid.*; Sam W. Tulk to J. George Wright, September 25, 1916, *Ibid.*; Special Officer Castle to J. George Wright, October 20, 1916, *Ibid.*; J. George Wright to Cato Sells, October 27, 1916, *Ibid.*

much like other Osages, chose to spend his leisure time and wealth on travel, but upon his arrival in Colorado Springs, he was alarmed to see so many Osages imbibing in illegal alcohol. When he returned from his travels, he wrote Superintendent Wright to inform him that “the liquor conditions out there are very bad.” Harvey witnessed a group of young Osages “who appeared to be less than twenty-one years of age, drunk every night” and advised that no one seemed concerned about the situation. Wright immediately sent a pointed letter to the mayor of Colorado Springs stating that he found him acting irresponsibly, especially if he “furnish[ed] restricted Osage Indians funds for the purpose of visiting your city if they are able while there to obtain liquor as indicated by my informant.” Wright requested to know what steps he had taken to eliminate this problem. The mayor declined to respond.²¹⁵

Tribal leaders understood that only adverse effects could result from unwanted individuals working their way into the Osages economic sphere or their relational web. Managing their relational web always took careful tending, but this task grew in complexity as more settlers began to arrive in Indian Territory. Most Osage's ideas of potential new partners to include in their relational web differed dramatically from the “civilizing efforts” of Osage Agents and other government employees. Tribal members did not want agency employees regulating their personal freedoms – they belonged to an independent and sovereign nation. Tribal leaders would have preferred to work with the federal government to strike a balance between their two interests. Ideally, the Osage Tribal Council would not agree to any limitations of their individual liberties, but they understood they should negotiate with their allies for the best possible arrangement for their people. However, federal employees did not desire to negotiate with any Native Nations. They viewed all Native peoples as dependent and “child-

²¹⁵ Luther Harvey to George Wright, August 15, 1922, Box 1, RG 75, Osage Law Enforcement, NARA-FW; George Wright to The Mayor of Colorado Springs, Colorado, August 17, 1922, Box 1, Ibid.

like,” and the Osages were no exception. Due to the Osages’ desires to govern their people independent of government oversight, Agent Freeman declared his position as Osage Agent was “the most difficult one I have ever been called upon to fill.” Ultimately, the Osage Agency incorporated more oversight and regulations as the Osages faced allotment and oil development.²¹⁶

As more people migrated to Indian Territory after the opening of the Unassigned Lands in 1889, settlers began to advocate for additional land. Congress obliged by passing the Oklahoma Organic Act, which split Indian Territory in half from north to south, creating a separate Oklahoma Territory out of the western portion of present-day Oklahoma. Prior to 1890, whites could not legally settle in Indian Territory without express permission from the Office of Indian Affairs. Dramatically reducing the area comprising Indian Territory temporarily assuaged settlers' demands for access to the area, but it did not prevent whites from advocating for all lands held by Native peoples.²¹⁷ Historian Angie Debo described the settlement in Oklahoma as an “orgy of exploitation” since white settlers attempted to procure Native lands by any means necessary.²¹⁸ Osage leaders observed and stayed “well informed on all matters relating to their welfare before Congress and the Departments.” Thus, tribal leaders remained keenly aware that additional assaults on their land likely would begin.²¹⁹

The Tribal Council heard rumors that settlers wanted to form their own territory before Congress passed the Oklahoma Organic Act. Tribal leaders knew they needed to do something,

²¹⁶ Freeman, “Report of Osage Agency, Oklahoma, July 31, 1895,” 257.

²¹⁷ Chap 182, May 2, 1890, 26 Stat. 81; Baird, 67.

²¹⁸ Brian Frehner, “Oil, Indians, and Angie Debo: Representations of Energy Development on Tribal Lands,” in *Indians & Energy: Exploitation and Opportunity in the American Southwest*, eds. Sherry L. Smith and Brian Frehner (Santa Fe: School for Advanced Research Press, 2010), 35.

²¹⁹ Mitscher, “Report of Osage Agency, Pawhuska, Oklahoma, August 21, 1900,” 339.

especially after seeing House Bill 1277 and realized settlers had proposed the Osage Nation would reside within Oklahoma Territory. The Tribal Council appointed Ni-Kah-Ke-Pah-Nah, James Bigheart, and A. L. Chouteau to draft a protest to present before Congress as they debated the Organic Act. The address to the House Committee on the Territories expressed deeply held concerns about the effects of such a bill on the Osage people. They argued they should have been included in the drafting of the proposed legislation since they held the title of their lands and existed as a sovereign entity. This initial exclusion caused the drafters to express their desire to be a part of the proceedings so they did not suffer from a “narrow and technical construction of the law” that could force the dissolution of their tribe by being entirely absorbed into the settler population. In addition, the Osage Tribal Council feared the proposed Oklahoma Territorial government would take “aggressive” measures to overthrow their tribal government. If this happened, Osages worried they would be “at great disadvantage when opposed by an active and energetic white population rushing into the unoccupied territory...” This prescient statement came to pass in 1900 when the federal government dissolved the Osage tribal government. However, before this occurred, tribal leaders focused on allotment proceedings and negotiated the most beneficial terms they could for their people.²²⁰

The Osage Tribal Council sent their petition against the Organic Act of 1890 early in the debate process so they could influence the committee from the beginning of their discussions. The petition demonstrated the time-tested negotiation strategies Osage leaders honed through generations of experience with government entities. Tribal leaders showed Congressmen their reasoned approach and sensible amendments to ameliorate the situation. After reminding Congress of the continued peaceful compliance from the Osages as well as the original intent of

²²⁰ A fuller discussion of the dissolution of the Osages’ tribal government begins on page 274. Osage Tribe Concerning House Bill 1277, 1, 4-5.

Indian Territory, to be truly reserved for Native Americans, Ni-Kah-Ke-Pah-Nah asked “that great power [the United States] to fulfill its promises to us.” They proposed an amendment to the bill that would allow the Osage Nation to remain in Indian Territory with the “Five Civilized Tribes.” This measured request had merit since most laws passed pertaining to Indian Territory and tribal nations therein frequently lumped the Five Tribes and the Osage Nation together since they had Western-style governing systems in place. Tribal leaders had long recognized the similarities between the Five Tribes and themselves and had previously incorporated these Nations into their external relational web through alliances and trading agreements. They did not desire to be separated from one of their most powerful allies, the Cherokee Nation, nor did they want to reside in the newly formed territory on unprotected lands. Ni-Kah-Ke-Pah-Nah, Bigheart, and Chouteau ended their correspondence with the impassioned plea to amend the bill. Without the amendment, they contended,

“it will separate us forever from the people of our blood, and whose institutions and interests are like our own, and who are our friends and will help us in trouble. Until we shall find our condition intolerable and give our assent to be wiped out as a people and become the outcasts of a community having no feeling toward us but a desire to get rid of us, we shall have no friends around us and no hope for the future, and no motive to cultivate the ground that must soon pass into the hands of strangers.”²²¹

Some subsequent readers have doubted tribal members wrote the petition, instead suggesting sympathetic whites living among them must have written the piece due to the elevated language. Author Ruth Boutwell insisted the “items of grief which were mentioned called for a higher state of culture than could be found among the Osage people at this time.” These assertions discount the intelligence and education of tribal members. The Osage Tribal Council consisted of respected elders and well-educated tribal members, resulting in measures designed to aid the Osages that were thoughtful and well-received by government officials.

²²¹ Ibid., 5-6.

Despite the eloquence and intelligence demonstrated in the petition, Congress bowed to the pressure from whites throughout the country. The House Committee for the Territories discounted the Osages' petition, refused to include their proposed amendment, and the Oklahoma Organic Act ultimately passed, going into effect on May 2, 1890.²²²

After the formation of Oklahoma Territory, the Osage Reservation resided on the eastern edge of the new territory. Fortunately for the Osage Nation, their land still carried restrictions for white settlers, but much like the Tribal Council had feared, these restrictions did not prevent the continued assaults on their sovereignty throughout the 1890s. The federal government and Americans in the area desperately wanted the Osage Nation to allot their reservation and sell the surplus lands to settlers, thereby opening even more land for settlement. Due to the Osage Tribal Council holding the deed to their lands, they had to willingly agree to this process which placed them in a firm position of power throughout the negotiation process. Although the Tribal Council eventually allotted, they did so on their own terms and for the benefit of their people.

Tribal members first learned they might have to allot their lands in 1887 after the passage of the General Allotment Act, often referred to colloquially as the Dawes Act. The Dawes Act allowed the federal government to divide tribal lands into individual parcels, typically 160 acres per person. Once all land had been allotted to tribal members, settlers could purchase any remaining, often termed "surplus," lands for their own homesteads. This process allowed whites to legally claim lands forcibly taken from tribal communities. The original act did not apply to the "Five Civilized Tribes" or the Osages; however, the Curtis Act passed on March 3, 1893, extended allotment to include the Cherokee, Chickasaw, Creek, Choctaw, and Seminole Nations. While legislation did not stipulate that the Osage Nation had to participate, members of the

²²² Boutwell, 29-30; Statement of J. F. Palmer in *Statehood for Oklahoma: Hearing Before the Committee on the Territories of the House of Representatives, January 20, 1904* (Washington: GPO, 1904), 202-204.

Tribal Council, including Julian Trumbly, James Bigheart, Brave, Claremore, and Peter Bigheart, felt incredible pressure from government officials to allot their lands voluntarily. However, they continually resisted due to the advice from tribal elders and their commitment to maintaining strong bonds between tribal members through their internal relational web. This position had been a “long standing” one, but Osages feared the allotment process would place individuals in a vulnerable position without the support of the tribal government.²²³ After conversations with Citizen Pottawatomie tribal members and others who signed allotment documents, the Osages learned that many had “squandered all they had, and are now roaming about, the poorest of the poor.” To make ends meet, many moved to the Osage Reservation to work for tribal members “as common laborers.” This possibility seemed inconceivable to the Osages since they had successfully developed and maintained a self-sufficient economy. Tribal leaders resolved to avoid this situation for their people at all costs.²²⁴

Even though the Osage Nation refused to allot their lands, many tribal members had claimed lands for their own homesteads so they could engage in the tribe’s leasing economy in the early 1880s. Agent Laban Miles believed these actions proved the “idea of personal ownership of a claim is being rapidly developed.”²²⁵ President Harrison tasked David Jerome to chair a commission for the express purpose of negotiating allotment proceedings with several tribes within Indian and Oklahoma Territories. They started with the Cherokees and secured the allotment of eleven Native Nations, but their success met serious contention on June 23, 1893, as

²²³ Callahan, 13; Wilson, “Chief Fred Lookout,” 48; *Federal Indian Handbook*, 430, 447.

²²⁴ Miles, “Report of Osage Agency, Oklahoma, August 27, 1890,” 190.

²²⁵ Miles, “Report of Osage Agency, Oklahoma, August 30, 1892,” 391.

the Jerome Commission, also known as the Cherokee Commission, made its way to the Osage Tribal Council.²²⁶

Upon their arrival among the Osages, the commissioners began to explain the benefits of allotment, but the Osage Tribal Council quickly refused. Agent Miles reported that even though a fair number of mixed-bloods looked at the proposal as favorable, the consensus among tribal members was absolute rejection. Chief Black Dog and Tribal Councilman James Bigheart, with the support of the Tribal Council, raised concerns about their inability to protect and maintain control of the land after allotment, which could result in their dependence on the federal government for support. Their second and most forward-thinking concern related to mineral development. The Osages had just negotiated their first oil lease and did not want to lose profits from their newest economic venture.²²⁷ Despite the Tribal Council's resolute position, Agent Miles' replacement, Captain Dempsey, optimistically reported "within a year terms can be made with them," demonstrating the willful ignorance of federal employees as matters pertained to the desires of the Osages. Little did Dempsey know that the Osage Nation would continue to resist allotment pressures until 1906.²²⁸

The Jerome Commission ended in 1893, but the federal government acted on the hope and the reports from willfully ignorant Indian Agents that the Osages would allot their lands soon. On May 18, 1894, James S. Hook, John A. Gorman, and John L. Tullis arrived on the Osage Reservation to discuss "the surrender to the United States of such portion of their

²²⁶ On the Jerome Commission among other tribal nations, see William T. Hagan, *Taking Indian Lands: The Cherokee (Jerome) Commission, 1889-1893* (Norman: University of Oklahoma Press, 2003). Dempsey, "Report of Osage Agency, Oklahoma, September 5, 1893," 255; Baird, 68.

²²⁷ For additional information about oil leasing and the Osages' development of their mineral rights, see Chapter 5: Oil Development and Wealth.

²²⁸ Dempsey, "Report of Osage Agency, Oklahoma, September 5, 1893," 255-256; Baird, 68.

reservation in Oklahoma as they may be willing to cede.”²²⁹ They soon realized Miles’s report was unnecessarily optimistic as the Tribal Council still refused to cede their lands. Black Dog and Bigheart reasoned the tribe remained satisfied with the current form of government and saw no need to dissolve a functional system. They also contended they would continue to refuse allotment until two conditions could be satisfied: 1) the funds from their Kansas lands should be appropriately allocated to the Osages and 2) many Osage “tribal members” were in fact not Osage and must be removed from official tribal rolls.²³⁰

Tribal Council members understood allotment could easily lead to the loss of all they had achieved during their time in Indian Territory. Tribal members refused to discontinue their extremely successful leasing economy and their relational web. Agreeing to allotment would break apart thousands of acres into small land holdings that ranchers would be less likely to lease due to insufficient acreage for their large herds. Additionally, without continuing to hold their lands in common under one title, tribal members feared they would lose their land little by little and eventually be separated from one another, leading to the destruction of their communal lifestyle and their close bonds, which constituted their internal relational web. Osage leaders held a position of strength during these conversations since they held the “title in fee” for their lands. As they saw it, the federal government could not force them to participate in allotting their lands.

After an unsuccessful end to their trip to Indian Territory, the 1894 commissioners returned to Washington understanding that the Osages' concerns over the tribal rolls posed

²²⁹ D. M. Browning, “Report of the Commissioner of Indian Affairs, Washington, September 14, 1894,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1894), 29.

²³⁰ Black Dog and Bigheart referenced the application of their moneys to the Civilization Fund that the government used to support off-reservation boarding schools. For more information about the Civilization Fund, see Chapter 1: Kansas Negotiations and the discussion of the Canville Treaty. Newman, 181-182; Miles, “Report of Osage Agency, Oklahoma, August 27, 1890,” 190.

serious problems for the government's allotment plans. The Tribal Council argued their rolls contained the names of individuals who "are not entitled by law or blood to any share in the Osage tribal property."²³¹ Throughout the 1880s, the Osages' growing wealth and economic status "led to a scramble for places on the Osage roll, to which, during that period many names were added."²³² This added to the list of concerns and problems tribal leaders dealt with, but the growing attention from outside the Nation and the resulting desire of non-Osages to benefit from the successes of the tribe ultimately demonstrates their ability to care for their own people. The Osage leasing economy proved enormously successful to the point where becoming a "citizen" of the Nation became "attractive to Indians of other tribes" as well as area whites.²³³

The Tribal Council recognized that some individuals deserved a legitimate place on the tribal rolls and readily added them to the census rolls. In 1891, the Osage population grew from 1,500 to 1,563 due to some families who had remained on their former Kansas Reservation deciding to return to the larger tribe. After years apart and with the possibility of allotment on the horizon, these families decided to rejoin their relatives in Indian Territory. They presented their cases before the Tribal Council and the Department of Interior before being officially counted among the Osages.²³⁴ Some who joined the Osages by marriage came from the group of Quapaws who temporarily relocated to the Osage Reservation. It is not clear how many Quapaws married tribal members, but it is known that seventy individuals remained among the Osages in 1890, and they were "loath to return to their own reservation."²³⁵ Despite these approved additions to the tribal rolls by the Tribal Council, many others, both Native and non-

²³¹ Freeman, "Report of Osage Agency, Oklahoma, July 31, 1895," 255.

²³² Freeman, "Report of Osage Agency, Pawhuska, Oklahoma, August 18, 1897," 237.

²³³ Ball and Xavier; Cracraft, 10.

²³⁴ Miles, "Report of Osage Agency, Oklahoma, September 1, 1891," 353.

²³⁵ Miles, "Report of Osage Agency, Oklahoma, August 27, 1890," 190.

native, tried any method at their disposal to be recognized by the government as Osage. Some even paid “large sums of money to members of the council or influential members of the tribe”²³⁶ to be added, leading to “a very fraudulent roll.”²³⁷ This situation caused significant tension among the Osages since “intermarried citizens” and their mixed-race children started to outnumber full-blood Osages.²³⁸

Tribal members knew their rolls had been infiltrated by unauthorized individuals for some time; however, by the 1890s, the disparity became so great that immediate action needed to be taken. Individuals, particularly those from historically powerful families, feared their influence would fade as illegitimate members made their way onto the tribal rolls. Many supported an official investigation to determine the legitimacy of the tribal rolls. These individuals started a petition to present to the Osage Agency and employees of the Office of Indian Affairs. In light of legitimate concerns voiced by tribal members, Agent Pollock advocated for an official investigation to quell any unrest among the Osages, which would, in turn, allow allotment to continue unimpeded.²³⁹

The Osage Tribal Council sent a resolution regarding the illegitimate rolls to the Office of Indian Affairs on February 6, 1895. They also organized a delegation to travel to Washington, D. C. to meet with Cornelius N. Bliss, the Secretary of the Interior, so he could assign “a competent person” to investigate the rolls so that “all persons found to be illegally thereon should be stricken off.” The delegation’s efforts persuaded Bliss, who on March 11th recommended an investigation take place. To demonstrate their commitment to the

²³⁶ Freeman, “Report of Osage Agency, Pawhuska, Oklahoma, August 18, 1897,” 237.

²³⁷ Kathryn Red Corn in Ball and Xavier.

²³⁸ Wilson, “Chief Fred Lookout,” 48; Burrill, 73.

²³⁹ Freeman, “Report of Osage Agency, Pawhuska, Oklahoma, August 18, 1897,” 237; Jones, “Osage Annuity Roll Contested Cases,” in “Report of the Commissioner of Indian Affairs, Washington, September 26, 1898,” (hereafter referred to as the “Osage Annuity Roll Contested Cases”), 102.

investigation, the Tribal Council resolved to set aside \$2,000 from their budget to help cover any expenses that might accrue.²⁴⁰ Additionally, the Tribal Council enlisted the aid of Attorney T. J. Leahy to examine additional enrollment cases during the investigation. Although he himself married into the tribe through a prominent Osage family, the Osage Tribal Council relied on his expertise throughout the allotment period. Leahy's own status among the Osages demonstrates the complexity of the issue to the degree requiring an official investigation. Due to the effort of many, official investigators traveled to the Osage Reservation in 1898.²⁴¹

Prior to sending individuals to the Osage Nation for the investigation, Bliss instructed the Tribal Council to draft a list of specific individuals in question along "with the reasons upon which the council expected to sustain the charges." The Office of Indian Affairs hoped this list would limit the extent of the investigation allowing for a quick and relatively inexpensive endeavor. The initial list submitted to the Secretary of Interior on September 12, 1895, contained 446 names. After receiving the initial list of questionable tribal members, the Office of Indian Affairs received presidential approval to utilize Osage money held in trust to fund the commission. Washington J. Houston and George Y. Scott were selected as the primary investigators for what became known as the Houston-Scott Commission. By the time Houston and Scott started the investigation, the Tribal Council had added an additional eighty-two names for a total of 528 suspected persons. However, the Commission immediately eliminated 296 individuals as they had been enrolled as tribal members prior to 1880. As they theorized, questions of legitimate tribal members should have been brought up before the Tribal Council and the Osage Constitution was formed in 1881. Tribal members signed another petition stating

²⁴⁰ "Osage Annuity Roll Contested Cases," 102.

²⁴¹ "T. J. Leahy Has Always Been Wise Counselor for Osages," *The American Indian* 1, no. 2 (November 1926): 2; Freeman, "Report of Osage Agency, Pawhuska, Oklahoma, August 18, 1897," 237.

“as a matter of justice,” the investigation should not apply a time limit as to who could be investigated. The Houston-Scott Commission remained firm in their stance, but they did allow an exception in cases of “*manifestly flagrant fraud* [emphasis in original].”²⁴²

Houston and Scott arrived at the Osage Nation with a finalized list of 232 individuals to investigate. Using government and tribal enrollment records and verifying as much information as possible using the marriage, birth, and death records of area Catholic and Protestant churches, the commissioners worked through the list of names. After the investigation, Houston and Scott submitted separate recommendations. Both men stated eighty individuals should undoubtedly remain tribal citizens. Another five people were dismissed due to being entered onto the list in error. From there, the opinions differed significantly. Houston recommended the remaining 147 individuals “without evidence to sustain enrollment [should be] recommended stricken off the roll.” Scott took a more conservative opinion and only believed 74 of the 147 should be removed from the rolls. Both opinions were forwarded to the Department of Interior for further review. In a conciliatory move, Secretary Bliss struck a balance between the two commissioners by recommending that 92 individuals should be eliminated from the tribal records. However, Bliss could not unilaterally decide the fate of the individuals; rather, the Assistant Attorney General James Edmund Boyd would have to make the final and official ruling. Boyd received the documentation of the investigation but seemed to disregard the findings of the commissioners who had personally assessed the situation. Instead, he declared only twenty-five people should be removed from the tribal rolls. The federal government considered the remaining 207 people Osage citizens. Although Boyd’s motive remains obscure, it is possible that the individuals

²⁴² “Osage Annuity Roll Contested Cases,” 102-104.

whom the commission had investigated used their influence and petitioned to remain on the tribal rolls.²⁴³

The Tribal Council and many tribal citizens found this news incredibly upsetting. They witnessed their numbers inflate through fraudulent “tribal members,” and when they sought justice through legal means, they had been denied. The Osages grew concerned about the legitimacy of those among them due to the rapidly changing environment that surrounded them. Within one generation, tribal members witnessed extreme hardship, death, starvation, a massacre, and new economic opportunities that allowed them to become the wealthiest Native Nation in the country. Now they saw a dramatic flux in their tribal membership at the same time allotment came knocking at their door. Tribal leaders likely grew concerned about how they could maintain their people, culture, and assets in the face of even more change. The Osages relational web had held firmly throughout the stretching and expansion it had faced through the 1870s and 1880s due to the commitment of tribal members' relationships with one another and the support of their allies. However, after the disappointing conclusion of the Houston-Scott Commission, many full-blood tribal members knew they needed to take active measures to lead the Osage Nation to further success. In their view, the education of the next generation was the best way to ensure they were ready to confront any challenges that came their way.

Education had always been an important feature for many Osages, but during the 1880s and beyond, tribal members actively promoted educational opportunities for their children. During a delegation to Washington D.C., White Horn stated he wanted his son to grow up differently. “Look at me; what use am I? I am a useless man...I have not any ideas and am guided by others. I hardly feel able to discuss my own rights just for the want of

²⁴³ Ibid; Callahan, 14-15.

intelligence...My idea is to force him into a different life and to be a different man who will not only be useful to himself, but also to his peoples.”²⁴⁴ Chief Bacon Rind advised young Osages “to prepare themselves for the future by obtaining a good education in order that they might compete with the white men in the business world.” Tribal members saw the political pressures and dealings of white settlers as well as local and federal governments, and they realized they could safeguard their sovereignty through education. Tribal members instilled a respect for relationships between tribal members in their children, which ensured the Osages internal relational web would continue to grow and remain strong in the face of future challenges. However, tribal members knew their children needed to embrace education so they could develop the critical external relationships and alliances that would continue to support tribal members through their external relational web.²⁴⁵

Tribal Council members acted quickly and adopted a new law requiring all children aged seven to fourteen to go to school for at least four out of six months. To provide additional encouragement for the adoption of the law by tribal members, the Tribal Council ruled they had the right to withhold a child’s annuity payment for truancy. Over time, the law expanded to include all minors over the age of six, and the length of time in school extended from four months to at least eight months each year. This mandatory law was so successful, in 1885, one year after its proposal, the local school was overcrowded. By 1886, Chief Black Dog and the Osage Agent recommended building another school so the tribe could educate more students. Even though self-described “Friends of the Indians” would have approved of Osage children attending off-reservation boarding schools such as Carlisle Indian School, the Haskell Institute, or Chilocco Indian School, most Osages refused to send their children away. Instead, Osage

²⁴⁴ Miner, 164.

²⁴⁵ Olcott, 18.

students attended mission schools on the reservation as well as local public schools. They did not want to separate their children from their loved ones and their culture so they could remain connected to the Nation's community.²⁴⁶

When the Tribal Council enacted the education mandate, Osage tribal members embraced education as an opportunity for their community. Osages supported the measure through school attendance and the dedication of resources from the tribe. Starting in 1906, the Osage Nation contributed up to \$50,000 annually from their oil royalties to establishing and maintaining tribal schools.²⁴⁷ This level of support allowed Osage children to access a quality education leading to a reduction of the illiteracy rate to around ten percent in 1923. Even as teachers used racist language to describe Osage students by stating they “were doing just about the normal work that would be expected of white children,” tribal members continued to support their local schools.²⁴⁸ Of course, some families refused to send their children to school for various personal reasons and circumstances, but many did everything in their power to ensure their children attended faithfully. When an unnamed father discovered his son had been skipping school, he tasked his chauffeur to take his son to school and accompany him to each class.²⁴⁹ This may be an extreme example of the dedication of an Osage parent, but it is clear the tribal community quickly

²⁴⁶ Miles, “Osage Agency, Indian Territory, September 1, 1884,” 82; “An Act Relating to Schools,” Article XIV in Fitzpatrick, 97; Haskell Institute Club; Newman, 175; Chap 4, June 30, 1913, 38 Stat. L. 77 in Barney, 67; Miles, “Report of Osage Agency, Oklahoma, August 27, 1890,” 190; Miles, “Osage Agency, August 20, 1885,” 90; David, “Osage Agency, Indian Territory, September 1, 1886,” 132, 134;

²⁴⁷ Eventually most Osage students started to attend local public schools due to the fact that the two tribal schools on the reservation were boarding schools. Additionally, some parents chose to send their children to public school rather than the Catholic school on the Osage reservation was Catholic. Osage parents never doubted the benefits of an education. Rather, they exerted their autonomy and chose where and how they wanted their children to be educated. Vaux, “The Pauperism of Riches – An Indian Paradox,” 73; Meriam, 353; Boutwell, 71; Lamsam and Johansen, 277.

²⁴⁸ Throughout the 1920s, the national illiteracy rate was six percent while the rate for “Black and others” hovered around twenty-three percent. Bureau of the Census, “Historical Statistics of the United States, Colonial Times to 1970” <https://nces.ed.gov/NAAL/lit-history.asp>. Meriam, 353.

²⁴⁹ Boutwell, 93-94.

adopted the idea that the next generation must be educated so they could support the Osage Nation as they matured.

Education of Osage children became paramount for parents due to their desire to maintain the relational web generations of tribal leaders had carefully cultivated. Osage parents recognized the world had changed, and they needed to encourage their children to adapt to a different world than the one they were raised in. The average Osage household had between three and five children leading to rapid population expansion. However, tribal demographics began to rapidly shift in unexpected ways. While birth rates among the Osages increased by 1900, infant mortality among full-bloods dramatically outpaced mixed-blood tribal members. In 1901, fifty-five percent of full-blood infants died before their first birthday. In comparison, the infant mortality rate of mixed blood Osages was eleven percent. Records indicate a total of 104 births among the Osages in 1902 (fifty-one full blood and fifty-three mixed blood), but fifty-four percent of the full blood infants died while only 5.88% of mixed blood infants died. Agent Mitscher used these statistics to point to “the superiority of white, or civilized methods of caring for the young,” but that is a profoundly paternalistic view of the data. In fact, Harry Walker, the agency and school physician, stated the reason for the deaths among full-blood infants was a high rate of tuberculosis transmission from mother to child. As the Osages moved to Indian Territory in 1871, a census showed ninety-two percent of tribal members were full-blood tribal members. By 1906, due to a multitude of factors, including low birth rates, the hardship of relocating to an unfamiliar environment with limited supplies, delayed rations, lack of resources to procure appropriate clothing and housing, multiple epidemics, and violent encounters with western tribes and neighboring whites, only thirty-eight percent of the tribe were full-blood

Osages. Since their removal to Indian Territory, the Osages population had changed drastically, leading to an increase of 240% mixed-blood tribal members.²⁵⁰

In addition to the fundamental shift in demographics, political factions continued to present new challenges. After implementing their 1881 constitution, tribal members began to align themselves with two different political views, conservatives and progressives. This division did not divide the tribe, nor was the politicization of tribal governance completely unexpected. Instead, tribal members worried more about the rapid shift in demographics and the loss of elders to lead the nation. The hardships of moving to a new reservation, such as limited health care and food, resulted in a vulnerable elder population leading to council meetings dominated by younger generations who could easily outvote tribal elders.²⁵¹ In many instances, the differences that arose between tribal members occurred due to individual goals. Those who had cultivated significant independent wealth through the leasing economy wanted to accept allotment so they could tend to their own finances without further interference by the federal government. Others wished to maintain cultural practices of caring for all tribal members by maintaining tribal control of communal assets. As tribal members adjusted to their changing world and circumstances, they relied on their internal relationships to implement effective measures to support their people.²⁵²

As tribal members navigated their changing world, outside observers dismissed Osage's desires to rely on one another, instead presenting the environment as chaotic and unproductive. One observer reduced tribal members into simplistic caricatures: full-blood Osages were

²⁵⁰ Hicks, 9; Mitscher, "Report of Osage Agency, Pawhuska, Oklahoma, August 14, 1901," 326; Frantz, "Report of Osage Agency, Pawhuska, Oklahoma, August 25, 1904," 299; Mitscher, "Report of Osage Agency, Pawhuska, Oklahoma, August 21, 1902," 293; Miner, 211; Pollock, "Report of Osage Agency, Pawhuska, Oklahoma, August 16, 1899," 294.

²⁵¹ Wilson, "Chief Fred Lookout," 48; Callahan, 12; Burrill, 73; Boutwell, 42.

²⁵² Pollock, "Report of the Osage Agency, Pawhuska, Oklahoma, August 16, 1899," 294; Glenn, 418; Baird, 68-70.

“uneducated in the ways of the white man as respects their ability to conduct their business affairs,” but mixed blood Osages “are in very great many instances shrewd businessmen of ability.”²⁵³ Local agents refused to temper their observations when they stated the two parties exhibited an “intense jealousy”²⁵⁴ and the two parties “seldom work in harmony.”²⁵⁵ These descriptions and the belief that the two parties were “hopelessly divided” are simply incorrect and inherently racist. In fact, anthropologist and Osage tribal member Jean Dennison asserts this simplistic representation (full-bloods as ignorant and dependent and mixed-bloods as “civilized” and “industrious”) is yet another example of the colonial process. Tribal members disagreed and debated important topics, but if outward observers were correct in their assessments, then the successful negotiations, business ventures, and monetary success of the tribe could not have occurred. The Osage Nation, comprised of both mixed and full blood individuals, cultivated their relational web through an active community of people, consisting of those within the tribe, valuable allies and partnerships who had been invited into the Osages sphere of influence, and economic opportunities in order to support their people. This started during the colonial process and continued with great success into the twentieth century.²⁵⁶

Regardless of how strong the Osages’ relational web became or how successful individual tribal members had become, Oklahoma settlers watched conditions on the Osage Reservation with growing interest as they plotted how they could take the land for their own settlement. The next demonstrated attempt to force allotment upon the Osages Nation came in the form of a seemingly innocuous bridge. The bridge in question existed between Blackburn,

²⁵³ Denison, 57.

²⁵⁴ Freeman, “Report of Osage Agency, Oklahoma, July 31, 1895,” 255.

²⁵⁵ Frantz, “Report of Osage Agency, Pawhuska, Oklahoma, August 16, 1905,” 311.

²⁵⁶ Kate Barnard, “The Crisis in Oklahoma Indian Affairs: A Challenge to Our National Honor,” in the *Report of the Thirty-second Annual Lake Mohonk Conference on the Indian and other Dependent Peoples* (Lake Mohonk: Lake Mohonk Association, 1914), 75; Smith, 186; Denison, 57.

Oklahoma Territory, and crossed the Arkansas River, providing another route into the Osage Reservation. John R. Skinner, a trader among the Osages, provided the funding and materials necessary to construct the bridge. His trading store, Skinner, Simcock, & Granger, simply known as the “Red Store” from the days when Dunlap & Florer started the operation in 1872, featured prominently in the lives of tribal members. Even though Skinner had operated within the reservation for years, in 1895, he ran 1,600 head of cattle without paying taxes. Since Skinner refused to abide by the rules of the Osage Agency and the Department of the Interior at large, the federal government revoked his trading license. Skinner sold his interest in the trading post and relocated to the fledgling town of Blackburn, located roughly twelve miles southeast of Grayhorse. Once there, he became a founding member of the town by establishing another trading post.²⁵⁷

In order to gain access to the Osage Reservation for trading purposes as well as receiving mail and supplies freighted from Elgin, Kansas, Skinner decided to operate a ferry across the Arkansas River. The Chief of Engineers had deemed the Arkansas River as navigable, but the section near Blackburn was reported to be hardly deep enough for a canoe to pass by unencumbered. Instead, the river had to be forded, but floodwaters made it impossible to cross the river during the spring rains.²⁵⁸ Maude Cox, an early white settler on Osage lands, stated, “settlers of early days were completely shut off from the towns and country from the opposite side of Old Oklahoma Territory,” when the Arkansas was in flood stage. Cox remembered, “It has been nothing unusual to see the river during flood time almost a mile wide at Ralston,

²⁵⁷ “Testimony of Thomas Leahy, Jr.” in Committee on Indian Affairs, Osage Indian Funds, S. Rep. No. 1336 (1897), 53; Wahshowahgaley, 19; “Affidavit of Lieut. Col. H. B. Freeman,” in Committee on Indian Affairs, Osage Indian Funds, S. Rep. No. 1336 (1897), 114-115; “Testimony of John R. Skinner,” in *ibid.*, 85, 87-88.

²⁵⁸ Freeman, “Report of Osage Agency, Pawhuska, Oklahoma, October 2, 1896,” 262; “Testimony of Dr. G. W. Sutton,” in Committee on Indian Affairs, Osage Indian Funds, S. Rep. No. 1336 (1897), 63; Committee on Interstate and Foreign Commerce, “Bridge Across Arkansas River Between Pawnee County, Okla., and Osage Indian Reservation, H. R. Rep. No. 1226 (1896).

extending its breadth well back to the inlands on the Indian Territory side.” Flooding was such a problem by the early 1890s all three bridges crossing the Arkansas had been swept away.²⁵⁹

Despite the threat of floods, Skinner’s ferry operation proved essential since it was the only way to obtain supplies needed for his store.

Skinner’s ferry business succeeded in procuring goods for his store and likely turned a profit since ferries primarily operated on tolls. However, Skinner had bigger plans. He saw the inefficiency of unloading wagons and pulling cargo across the river along a cable wire only to reload it on the other side and concluded he needed a bridge. When Skinner asked the Osage Agency if he could build the bridge, Agent Freeman denied his request. Still in the middle of negotiating Osage debts, developing a credit system, and removing criminals and alcohol from the reservation, Freeman did not want more white traders trying to entice Osages away from the goals of “civilization” and the influence and jurisdiction of the Osage Agency. Additionally, Congress had declared the Arkansas River a navigable stream which meant any bridge needed to be approved by the Secretary of War. To circumvent Freeman and the lack of a permit, Skinner put the land and the bridge project under the name of his employee Frank Prudom. Skinner hoped Prudom, a mixed-blood Osage, would not be questioned in the same manner he had been, and the project could continue unimpeded.²⁶⁰

Skinner began construction which incensed Freeman, especially when he discovered the majority of the timber for the project had been harvested from the reservation without permission or payment to the tribe. Freeman sent a direct order to the Chief of Police Robacker and Policeman Mitchell to confiscate the bridge and construction materials. After an investigation,

²⁵⁹ Cox, Chap. Thursday, June 1, 1972.

²⁶⁰ Freeman, “Report of Osage Agency, Pawhuska, Oklahoma, October 2, 1896,” 262; *Guthrie Daily Leader*, April 1, 1896.

Freeman noted, “nearly every stick of timber in it was taken from the Osage Reservation, most of it from the private holding of Indians against their earnest protest at the time.”²⁶¹ Prudom and Skinner believing Freeman had overstepped his authority, filed an injunction where they attacked the “tyranny” of the Agent. Local papers decried Freeman’s actions:

“Who opposes this improvement? Just one man – the defendant, Freeman. He imagines his arbitrary will is law in the Osage Nation and the surrounding country. Robed with a ‘little brief authority,’ he imagines he is superior to all law, rules, and regulations, and may take his position in the capital of that nation and truthfully assert with Selkirk on the island:

I am monarch of all I survey;
My rights there are none to dispute.
“[The] Defendant is simply an Indian agent...”

In addition to filing suit against Freeman, Skinner and Purdom presented papers signed by tribal members attesting to their desire for the bridge. However, Freeman reported that many Osages had approached him, stating they did not want the bridge. These claims and rebuttals continued until Prudom’s lawyers successfully petitioned President Grover Cleveland and Congress, resulting in the passing of H.R. 5482, which authorized the construction of the bridge. The Committee on Interstate and Foreign Commerce determined the section of the Arkansas River in question was not navigable and, as a result, received Skinner received approval from the War Department for the bridge construction.²⁶²

Skinner’s bridge project reveals critical details about the impending legal battles the tribe faced as allotment crept closer. The Osage Nation had dealt with white settlers many times, both in Kansas and Indian Territory, but by the 1890s, settlers in Oklahoma Territory took bolder measures and refused to let the Native Nations stand in their way as they pushed the issue of

²⁶¹ Freeman, “Report of Osage Agency, Pawhuska, Oklahoma, October 2, 1896,” 262.

²⁶² “Testimony of Col. H. B. Freeman,” in S. Rep. No. 1336 (1897), 100; “Exhibit K – J. L. Morphis,” in *Ibid.*, 131; “Freeman, The Monarch – Seemingly Bases His Tyranny on the Supposition that None Can Dispute His Rights,” *Guthrie Leader*, May 14, 1895; *Guthrie Leader*, December 31, 1895; “Bridge Across Arkansas River Between Pawnee County, Okla., and Osage Indian Reservation.”

statehood. Skinner's bridge challenged the sovereignty of the Osage Nation and the authority of the Office of Indian Affairs. Agent Freeman stated he had never before seen the jurisdiction of the Office of Indian Affairs so thoroughly challenged in any district he had ever been involved in. The Oklahoma Territory court system ruled that the "full control over Indians and Indian affairs" held by the Department of Interior and subsequently, the Office of Indian Affairs was wholly unjust and "restrained an American citizen from going where he pleased." This sentiment embedded itself in the Oklahoman settlers and justified every step they took as they worked to take the land from the Osage Nation as well as other Native groups residing within Oklahoma Territory.²⁶³

It is not clear what the Osage Tribal Council or individual tribal members felt about Skinner's attempts at bridge construction. Likely, many did not take much notice of the affair since the bridge was located in a relatively remote section of the reservation. Although, their quietness in this situation should not be mistaken for lack of attention to current issues that affected them. The next assault on tribal authority occurred within their reservation, and the Osage Tribal Council immediately acted.

As allotment pressures continued to mount, politics among the Osages grew contentious. Tribal members respected positions of power and saw elections as vital proceedings to ensure their people continued to thrive. The election of 1898 proved to be highly charged due to the obvious attempts to limit both individual freedoms and tribal sovereignty.²⁶⁴ Commissioner of Indian Affairs, William Arthur Jones, described the events as a "crisis in Osage governmental

²⁶³ Freeman, "Report of Osage Agency, Pawhuska, Oklahoma, October 2, 1896," 262.

²⁶⁴ Freeman, "Report of Osage Agency, Pawhuska, Oklahoma, August 18, 1897," 237; Mitscher, "Report of Osage Agency, Pawhuska, Oklahoma, August 21, 1900," 339.

affairs” caused by a “bitter factional controversy” which led to an investigation to determine the election results. On February 21, 1899, Inspector McLaughlin declared Black Dog, the full-blood representative, had been elected Principal Chief, and Ma-Shah-Ke-Tah, the progressive party representative, would serve as the Assistant Principal Chief. To employees of the Bureau of Indian Affairs, the controversy among the Osages had become a nuisance. However, the Osages saw the federal government’s involvement as unnecessary and unwanted.²⁶⁵

In 1900, Peter Bigheart and Black Dog, the Chairman of the Osage Council and the Principal Chief, respectively, drafted a petition to Congress to assert their rights as a sovereign Nation. They recounted their faithfulness to the United States through the many peace treaties and land cessions they signed, but they claimed the federal government had “shown the utmost contempt for our laws, and declared their wish to abolish our national organization.” They vehemently protested all attempts at allotment, calling them “a hateful act of oppression.” Tribal leaders were especially perplexed by the push to allot their lands since they owned their reservation lands. They argued that possession of the deed to their land meant they could do with it as they saw fit. The Osage tribal government did not believe the federal government had the right to force the allotment of land they already owned.²⁶⁶

In addition to demonstrating their capability at handling their own affairs independent of the Office of Indian Affairs, tribal leaders lodged several complaints against their most recent Indian Agent, William J. Pollock. Their distaste for the man developed immediately after he arrived on the Osage Reservation during the summer of 1898, only ten months prior to filing their official complaint. They alleged Pollock participated in several illegal activities and

²⁶⁵ W. A. Jones, “Report of the Commissioner of Indian Affairs, Washington, October 1, 1900,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1900), 173.

²⁶⁶ Peter Bigheart, et. al. “Memorial of the Osage Nation,” S. Doc. No. 262 (1900), 2.

attempted to nullify the sovereignty of the tribal government. They claimed he allowed over 200,000 head of cattle to graze on Osage lands without proper grazing licenses or the approval of the Tribal Council. Additionally, the Tribal Council stated he had not accurately collected or dispersed grazing payments to tribal members. They also contended that Pollock had deliberately tried to “secure the [1898] election of certain persons whom he thought he could control for the benefit of himself and his friends.” Not being entirely successful, Pollock then withheld “their salaries ...to coerce them...” Lastly, Bigheart and Black Dog firmly stated that “he has in every way favored the traders at the expense of our people” and “has improperly and tyrannically used the powers of his office as agent to oppress us, collectively and individually.”²⁶⁷

Bigheart and Black Dog presented their concerns to the Commissioner of Indian Affairs and the Secretary of Interior but received little assurance the problems outlined would be addressed. Not to be deterred, they reached to the edges of their relational web and presented their case before Congress. Tribal leaders knew they had to work within the bureaucratic system, so they utilized their previous history and demonstrated friendship with the federal government as leverage to remove an agent they found abhorrent. The Osages’ relational web allowed them to select who could participate, how they were involved, and if their actions aided the nation. If threatened, tribal leaders utilized their network of contacts and relationships and took measures to safeguard their people and enterprises. In this case, the Tribal Council put so much pressure on Agent Pollock, and he resigned three months after the petition made its way

²⁶⁷ The Tribal Council also reported on the questionable morals Pollock displayed. Pollock “is habitually profane and blasphemous and without the moral qualifications which an Indian agent should possess. His presence in our midst would contaminate and destroy the morals of our people if it were not for the fact that they fear, abhor, and avoid him.” It is likely they included this as yet another way to garner the attention of government officials. They wanted Pollock removed immediately. If that meant they had to emphasize the fragility of their own virtue, so be it. That would be a small concession to remove an individual who actively worked behind the scenes to allot their land without their permission. Ibid, 2-3.

through the Senate Committee on Indian Affairs, demonstrating the effectiveness of the Osages' reliance on one another and their allies.²⁶⁸

By 1900, both the Office of Indian Affairs and members of Congress realized the Osage Nation existed as a true Nation and must be negotiated with on a nation-to-nation basis. The Osages had long asserted their sovereignty as a Native Nation, but the federal government dismissed these assertions. However, Office of Indian Affairs employees grew increasingly concerned that the Osages had so successfully countered all attempts at allotting their lands. Soon after the Tribal Council raised repeated concerns about William Pollock and subsequently challenged the authority of the Office of Indian Affairs, federal employees started to comment on the "bickering and strife" that had sprung up amongst full blood and mixed blood Osages. Pollock even reported to his superiors that "many of the more intelligent members of the tribe urgently request that the 'Osage National Government' be abolished as an impracticable experiment." Since this is the only documented version of this "request," it is probable Pollock attempted to encourage his superiors that the Osage Nation needed to be removed so they would cease to be a threat and allotment could continue unimpeded. It is no wonder why the Tribal Council fought for his removal.²⁶⁹

However out of touch Pollock's recommendation may have been, the Office of Indian Affairs took his suggestion seriously as previous agents had argued the Osage government had not provided "any real benefit to the people at large" instead simply producing a "fine crop of politicians."²⁷⁰ Commissioner W. A. Jones argued that "in view of the tangle into which the

²⁶⁸ Miner, 171.

²⁶⁹ David White, *Structure and Oil and Gas Resources of the Osage Reservation, Oklahoma*, Bulletin 686 of the United States Geological Survey (Washington: GPO, 1922), x-xi; Pollock, "Report of Osage Agency, Pawhuska, Oklahoma, August 16, 1899," 296.

²⁷⁰ Freeman, "Report of Osage Agency, Pawhuska, Oklahoma, October 2, 1896," 259.

affairs of the Osage Nation had gotten,” the only sensible course of action was to dissolve their tribal government. He cited four critical reasons for his decision: “(1) Acrimonious disputes between the two factions over elections; (2) entire absence of harmony between the Osage tribal officers and the Indian agent in the administration of tribal affairs; (3) the selection of ignorant men as officeholders, and (4) the profligate use of moneys received from permit taxes.” The 1898 election had been contentious, but Osages argued agency employees tried to hand-pick individuals for tribal government positions rather than allowing free elections as Osages desired. Osage officials balked at the accusation that their leaders were ignorant or wasting the money received from their leasing economy. Despite their protests, the Office of Indian Affairs issued an “order abolishing the Osage national government” on May 21, 1900.²⁷¹ Commissioner Jones stated this course of action would benefit the tribe since they would no longer expend resources to pay “the salaries of a long list of tribal officials.” The Office of Indian Affairs unilaterally decided the Osages’ affairs would be “more economically and satisfactorily handled through the agency office.” The subsequent Osage Agent, Oscar A. Mitscher, praised the dissolution of the tribal government as it allowed “an era of good feeling and fellowship” to enter all facets of agency duties. Osages could still vote for their chief and assistant chief, but to tribal members, these proceedings felt forced as Agency officials oversaw all election activities.²⁷²

The Osage Nation consistently changed and adapted to their surroundings and new people who entered their lives, but they always did so on their own terms. Osage Agents attempted to direct the fate of tribal affairs in the early 1880s, but tribal leaders responded by establishing a firm constitution modeled after the United States. They asserted their tribal

²⁷¹ W. A. Jones, “Report of the Commissioner of Indian Affairs, Washington, October 1, 1900,” in the *Annual Report of the Commission of Indian Affairs* (Washington, D.C.: GPO, 1900), 173-174; Baird, 65; Dennison, 21.

²⁷² Mitscher, “Report of Osage Agency, Pawhuska, Oklahoma, August 21, 1900,” 339; Mitscher, “Report of Osage Agency, Pawhuska, Oklahoma, August 14, 1901,” 327.

sovereignty and, in turn, created relationships through their relational web that benefitted their people.²⁷³ Additionally, the 1881 constitution allowed the Osage Tribal Council to establish its own courts. This action protected their people and ensured any disputes among tribal members could be solved on their own terms without the federal government's input. Federal courts still oversaw issues between Osages and non-tribal members, but their tribal court system allowed considerable autonomy for their people. The first Chief Justice, Peter Perrier served with two associate judges, Ne-Kah-E-Sey and O-Lo-Hah-Moie, and a court clerk. By all accounts, the court system ran smoothly, and when surveyed by Agent Miles, he found the rulings to be “generally just.”²⁷⁴ However, reports changed dramatically and without explanation in 1899 when Agent Pollock criticized the entire court process. He argued the court location was too far away from most tribal members, making it an “injustice” – never mind the fact that court proceedings were held in Pawhuska down the road from the Agency building. Regardless of petty complaints and criticisms, the legality of the Osages’ judicial system became the primary concern of the federal government.²⁷⁵

When the Osages decided to draft a constitution and model it after the United States Constitution, the federal government did not interfere. Even after the Osages established their own tribal courts in 1881, no one challenged the proceedings. The Osages lived in the middle of Indian Territory, and at that point, no settlers could claim lands there. However, as the government opened portions of Indian Territory for settlement and especially after the Oklahoma Organic Act passed in 1890, tribal courts throughout Oklahoma and Indian Territories became a concern since those judicial systems could potentially interfere with the fledgling state’s

²⁷³ Dennison, 21-22.

²⁷⁴ Miles, “Report of Osage Agency, Oklahoma, August 27, 1890,” 190.

²⁷⁵ Pollock, “Report of Osage Agency, Pawhuska, Oklahoma, August 26, 1899,” 296.

authority over the land. Even though the Dawes Act made strides with various Native groups to allot their lands, the law did not apply to the Five Tribes or the Osages. The Curtis Act expanded the reach of the Dawes Act to include the Five Tribes. The *Handbook of Federal Indian Law* refers to the Curtis Act as the result of “the determination of Congress to proceed with allotment without the consent of the tribes...” To accomplish this goal, the tribal courts of the Cherokee, Creek, Chickasaw, Choctaw, and Seminole were abolished. While the Curtis Act did not apply to the Osages, agency employees and the Office of Indian Affairs worked together to prove the Osage courts were just as dysfunctional as those that had been abolished among the Five Tribes.²⁷⁶

Agent Miles declared the Osages’ tribal government and court system had been a “feeble” effort that resulted in agency employees hearing cases related to “family quarrels, estates, boundary lines to farms, pastures, etc., and controversies between the Indians themselves, and between the Indians and their white tenants or employees.”²⁷⁷ Later, Agent Pollock blamed the agency's high case load due to a faulty system designed by the tribe themselves. Additionally, the federal government refused to recognize Osage court rulings as legally binding since the Office of Indian Affairs had not sanctioned the proceedings. This essentially fettered the Osage courts and rendered them inoperable. Government employees strategically worked to erode confidence in Osage tribal leaders and their constitution, culminating with the final act of dissolving the Osage tribal government – the most damaging assault to their sovereignty the Osage Nation had encountered.²⁷⁸

²⁷⁶ *Federal Handbook of Indian Law*, 430-431.

²⁷⁷ Miles, “Report of Osage Agency, Oklahoma, September 1, 1891,” 353.

²⁷⁸ Pollock, “Report of Osage Agency, Pawhuska, Oklahoma, August 16, 1899,” 296.

By dissolving the Osage tribal government, the federal government took steps to mitigate the influence and control the tribe had over their people and their resources. The Osage Nation had become too successful at managing their affairs, and their sovereignty threatened the authority of the Office of Indian Affairs. Undermining tribal authority meant efforts to allot Osage lands could resume, and government officials expected them to succeed. In the eyes of many Office of Indian Affairs employees, Osage tribal leaders had stood in the way of federal policies and the idea of “progress” for too long. By extinguishing the operations of tribal government, the federal government assumed responsibility for all Osage affairs and placed the Osages’ land and resources in trust “for the benefit of [the] tribe.” Even though the Osages reestablished their government and court systems in 1906, the Commissioner of Indian Affairs only allowed this to occur after they accepted allotment.²⁷⁹

At the turn of the twentieth century, Osage citizens watched as other tribal nations relented to allotment pressures. Settlers clambered for the newly opened lands leading to what some called the rapid “spoliation” of the land and its resources.²⁸⁰ The pace of allotment and subsequent settlement opened the door for a “hotbed of corruption.”²⁸¹ By 1904, it became evident the Osages would not be able to resist allotment much longer, especially when they learned Congress had passed legislation allowing for five town sites and a railroad to cross through their reservation. The Tribal Council sent a delegation to Washington D. C. to discuss impending allotment proceedings.²⁸² Upon their return, the Tribal Council drafted a resolution

²⁷⁹ For additional information and case studies of Native wealth, see Alexandra Harmon’s *Rich Indians: Native People and the Problem of Wealth in American History* (Chapel Hill: University of NC Press, 2010). Wilson, “Chief Fred Lookout,” 48; Andrew Gray in Ball and Xavier.

²⁸⁰ Debo, *Foot-loose and Fancy-free*, 42.

²⁸¹ Glenn, 418.

²⁸² At times this delegation is called the Mitscher Allotment Delegation since Osage Agent Oscar A. Mitscher accompanied eighteen tribal members to Washington, D.C. The delegation consisted of: Frank Corndropper, Bacon Rind, Fred Lookout, W. T. Leahy, Eaves Tall Chief, Charles Brown, Charles N. Prudom, Arthur Bonnicastle, W. S.

that proposed an alteration to the McGuire Statehood Bill before the Committee on Territories. The Tribal Council approved the proposed statehood bill but requested the Osage Reservation continue to exist as one county known as Osage County after Congress admitted Oklahoma into the Union. This had been discussed previously, but the Osages emphatically argued their people should remain together on the lands they “bought and paid for,” which meant they held their “lands and other communal property in a different manner from that of any other Indian tribe” within Indian or Oklahoma Territories.²⁸³

The Enabling Act stipulated that a constitutional convention would convene to discuss the path to statehood. Fifty-five representatives came from both Oklahoma and Indian Territories, with two representatives specifically represented the Osages and their interests. Having representatives at the Constitutional Convention provided an opportunity to protect Osage rights during a time when Native rights and sovereignty were continually called into question or simply revoked through legislation. The two representatives successfully presented the Tribal Council’s resolution and succeeded in designating the entire Osage Reservation as an independent county once the tribe went through allotment. This prevented local and county laws from further separating tribal members and infringing upon their tribal government. Ultimately, their determination to remain in a single county allowed Osages to continue to assert their sovereignty over their people and lands for generations to come.²⁸⁴ Even though Osages realized they would no longer be able to avoid allotment discussions, they relied on their alliances within their external relational web and proven negotiation strategies to shape allotment conversations to benefit their people.

Mathews, James Bigheart, Lawrence, Brave, Heh-Schah-Moie, Ne-Kah-Wah-She-Tun-Kah, Black Dog, Shun-Kah-Mo-Lah, and Peter C. Bigheart. Tom Mosier accompanied the group as their interpreter. Dickerson, 50.

²⁸³ Ibid., 51.

²⁸⁴ Chap 3335, June 16, 1906, 34 Stat. 267; McReynolds, 314-315; Lamsam and Johansen, 272.

Even though Congress authorized a survey of the reservation conducted in 1905 in preparation for allotment, Oh-Lo Hah-Wal-Lah and Bacon Rind, the newly elected Principal and Assistant Chiefs respectively, argued no one could force them to accept allotment since they purchased the land during the Canville Treaty proceedings.²⁸⁵ In addition to many other tribal nations, Osages recognized that the standard 160 acres divided between tribal members during allotment did not aid future generations of tribal members as the land would be subdivided into smaller parcels as it was inherited. As the Osage Tribal Council watched events happening around them, they realized legislators and politicians had surrounded the tribe. At this point, all tribal nations within Indian Territory had either agreed to allotment proceedings or had fully completed the allotment process. Native peoples on all sides of the Osages were forced to move to a fraction of their reservation lands while the remainder was sold to the highest bidder. Thus far, the Osage Nation had resisted, but when President Theodore Roosevelt signed the Enabling Act, allowing Oklahoma and Indian Territories to join and form the soon-to-be state of Oklahoma, on June 16, 1906, tribal leaders confronted allotment head-on.²⁸⁶

An immediate result of the Constitutional Convention came in the form of a townsite commission to determine appropriate locations for establishing proper towns. Once located, the commission sold lots to individuals and businesses, thereby ending the trading licenses once needed to conduct business among the Osages. The townsite commission consisted of Osage

²⁸⁵ Even though the federal government dissolved the Osages tribal government, the Osage Nation continued to operate as they had since the adoption of the 1881 constitution. They no longer had their tribal courts, but they Tribal Council and positions of Principal and Assistant Principal Chief remained. However, after their government was declared null and void, the Osage Agent played a larger and interfering role in tribal elections. This is how both Oh-Lo Hah-Wal-Lah and Bacon Rind, both possessing progressive ideas and amenable to allotment became the leaders of the Osage Nation in 1904. Baird, 70; Gerhard Sisters, Photographers. *Oh-Lo Hah-Wal-Lah Osage Chief*. United States, 1904 (Library of Congress #2014647404).

²⁸⁶ Chap 1479, March 3, 1905, 33 Stat. L. 1048 in Barney, 34; Leupp, "Annual Report of the Commissioner of Indian Affairs, Washington, D.C., September 30, 1908," 116; Callahan, 14; *Osage Tribe Concerning House Bill 1277*, 1-2; Meriam, 40; Chap 3335, June 16, 1906, 34 Stat. 267; McReynolds, 314.

Agent Frank Frantz, Special Indian Agent W. L. Miller (who became the next Osage Agent in 1906 when Frantz became the last Governor of Oklahoma Territory), and Julian Trumbly appointed by the Osages. The commission established Pawhuska, Hominy, and Fairfax with 160 acres each and the smaller towns of Foraker and Bigheart located along the Midland Valley Railroad.²⁸⁷ Individual lots sold for anywhere between \$60 and \$150 each at the sale on March 3, 1906. Pawhuska, which had been established as soon as the Osages moved to Indian Territory in 1871 had a population of 1,200 people in 1904, many of whom rushed to purchase their own lots. The Osage Townsite Commission estimated the sale of lots at all the townsites would yield around \$240,000 in profits, but by September 1, 1906, the lot sales had earned the Osages \$372,979.50, and 207 lots had not yet been sold. Some settlers complained the dealings of the Townsite Commission were unfair and too prolonged; however, the Osages clearly profited from the transactions.²⁸⁸

With the establishment of townsites and the discontinuation of trading licenses, tribal members found they could engage in free and unregulated trade on their reservation for the first time. For the previous two decades, Osages had to operate within the bounds of a strictly controlled credit system monitored by agency employees. Tribal members never wanted their money restricted in such a severe manner, even if it did prevent some from incurring extreme debts. Many, including Agent Ret Millard, stated that if the credit system and trade supervision was revoked completely, “it will not take long for the Osages to be as deeply involved in debt as they were before the card system was adopted.” In a rare move, Congress approved a new credit

²⁸⁷ Bigheart, Oklahoma later changed its name to Barnsdall, Oklahoma in 1922 in honor of Barnsdall Refining Company. Jon D. May, “Barnsdall,” *The Encyclopedia of Oklahoma History and Culture*, <https://www.okhistory.org/publications/enc/entry.php?entry=BA023>.

²⁸⁸ Frantz, “Report of Osage Agency, Pawhuska, Oklahoma, August 16, 1905,” 308; Chap. 1479, March 3, 1905, 33 Stat. L. 1048, in Barney, 35-36; Haskell Institute Club; Millard, “Report for Osage Agency, Pawhuska, Oklahoma, September 1, 1906,” 316; Frantz, “Report of Osage Agency, Pawhuska, Oklahoma, August 25, 1904,” 298; Newman, 191-193.

system but struck a balance between the recommendations of the Office of Indian Affairs and the Osages. Congress agreed to increase the limit of credit extended from sixty to seventy percent, but even more importantly, tribal members could elect if they wanted to participate as the program was entirely voluntary. Tribal members welcomed the opportunity to exercise more autonomy over their money, trading relationships, and personal affairs.²⁸⁹

After the Constitutional Convention and the establishment of townsites, the Osage Tribal Council knew they could no longer hold off allotment proceedings. Like the black spider, Osages watched allotment proceedings and discussed with other tribal nations, such as the Citizen Pottawatomie, and actively planned.²⁹⁰ Tribal Council members decided the best way to ensure the protection of their people, legally and culturally, would be to draft their own allotment bill. Once completed, a delegation traveled to Washington to present the document in February 1906. Since Congress eagerly awaited the allotment of Osages' substantial reservation, they quickly approved the bill and appointed an allotment commission to begin on June 28, 1906. Secretary of Interior Hitchcock appointed Charles E. McChesney and Charles O. Shepard, while the Osages elected Black Dog to participate in the commission. Since the Osages witnessed the results of other tribal allotment proceedings, the Tribal Council carefully guided the Nation through allotment. When completed, the Osage Nation demonstrated effective negotiation and diplomatic strategies to ensure all tribal members received equal and fair consideration.²⁹¹

²⁸⁹ Millard, "Report of Agent for Osage Agency, Pawhuska, Oklahoma, September 1, 1906," 315-316.

²⁹⁰ Miles, "Report of Osage Agency, Oklahoma, August 27, 1890," 190.

²⁹¹ The Kaw Nation, who in the late 1800s were often discussed in the same breath as the Osages, agreed to allot their lands in 1902. The process was completed on July 1, 1904 when the Kaw were officially separated from the Osage Reservation and agency. Mitscher, "Report of Osage Agency, Pawhuska, Oklahoma, August 21, 1902," 292; Frantz, "Report of Osage Agency, Pawhuska, Oklahoma, August 25, 1904," 296; Callahan, 14; Haskell Institute Club; Millard, "Report of Agent for Osage Agency, Pawhuska, Oklahoma, September 1, 1906," 318; *Federal Indian Law Handbook*, 1031; Wilson, "Chief Fred Lookout," 48.

Congress initially dissolved the Osage tribal government in an attempt to diminish the powerful nation and force them to accept allotment. Federal employees, particularly Indian Agents, hoped that once their government had been disbanded, the leasing economy would falter, leaving the Osage Nation no other choice but to turn to allotment to support their people. However, tribal leaders continued to refuse all allotment attempts because they still held the deed to their reservation. When their forefathers negotiated for the deed to their Indian Territory lands and later insisted the deed be delivered with the correct verbiage, they protected all Osages from future invasions of unwanted settlers and wholesale land seizures from the federal government. The Office of Indian Affairs thought dissolving the Osages government and becoming heavily involved in tribal elections so pro-allotment candidates would be victorious would inevitably lead to allotment. However, the deed to the reservation ensured all tribal members remained on their lands since it could not be removed without violating the Drum Creek Treaty.

During the statehood hearings in 1904, allotment featured prominently in the rhetoric of the representatives and politicians. Oklahoma Statehood was contingent on the allotment of Native lands, which as many feared and Colonel H. E. Havens testified at the statehood convention that allotment proceedings could result in delaying statehood for an additional five years.²⁹² This became a common concern, particularly regarding the Osages, because they held their lands in common yet leased the land for considerable profits. McGuire argued the Osages leasing economy led to a situation where “Those are the very kind of people who will hold for all time to come this 650 acres of land to the head and will never let it go until they can let it go upon a good business proposition, just like anyone else. That condition largely prevails in the Indian Territory, and that is why I say it is not a question as to when this land is going to become

²⁹² “Statement of Hon. H. E. Havens” in the *Statehood for Oklahoma*, 137.

alienable. The question is, Are you going to get these parties [Osages] to turn it loose?"²⁹³

When one considers these concerns and the desire to advance Oklahoma Statehood, it becomes clearer why Congress would so willingly consider the Osages allotment proposal. Once Chief Oh-Lo Hah-Wal-Lah and Assistant Chief Bacon Rind presented their own allotment bill to Congress, federal officials took the opportunity to negotiate. By waiting to allot their lands, not only did tribal leaders learn from other allotment proceedings, but they also understood they could use the settler's desires for Oklahoma Statehood to their advantage.

Tribal leaders focused their efforts on re-establishing the Osage government, Tribal Council, and constitution since they were paramount for all other allotment proceedings. Office of Indian Affairs employees thought the government-appointed and approved Tribal Council would easily bend to their suggestions; however, tribal members knew they had to rely on the relational web they had created within the tribe. If the strength of their bonds started to fray or unravel from within, the Osage Nation would not be able to withstand the pressures from non-tribal members and government officials encouraging allotment or other measures that would negatively affect the tribe. James Bigheart, Chairman of the Tribal Council during the allotment proceedings, reminded tribal members to rely on one another so they could negotiate the best arrangement possible.²⁹⁴ While Bigheart may have led the Tribal Council, it is important to note that he was not solely responsible for the beneficial aspects of allotment. Rather, the Osages relational web required tribal members to be equally invested in the affairs of the Nation. Osage

²⁹³ "Statement of Hon. B. S. McGuire," February 19, 1904 in *Statehood for Oklahoma*, 245.

²⁹⁴ "Osage Allotment Act," June 28, 1906, 34 Stat. 539 in Barney, 44; Dennison, 23.

tribal members engaged in cooperative politics to protect their people in the face of the most challenging circumstance since the corrupt Sturges Treaty.²⁹⁵

The negotiations and proceedings of allotment were codified in the Osage Allotment Act of 1906. One of the key tenants of the act reiterated the sovereignty of the Osage Nation. The tribe had existed in an uncertain environment from the time the Office of Indian Affairs “dissolved” their government in 1900 until the enactment of the Osage Allotment Act. Now the Osage Nation could conduct their affairs as they saw fit and with minimal interference from the federal government. In fact, tribal leaders had grown tired of trying to work with the Office of Indian Affairs, so they requested the ability to circumnavigate Agency and Office of Indian Affairs employees. This allowed them to deal directly with the Secretary of Interior, Congress, and the United States President rather than a series of intermediaries. Tribal leaders expanded their external relational web to include direct access to some of their most powerful allies to date. After establishing these new relationships, the Osages dismissed the government-appointed council, and the Osage Nation held free elections for new tribal leaders. Tribal members voted every two years for the election of the Principal Chief, Assistant Principal Chief, and eight Tribal Council members²⁹⁶. These changes strengthened the internal structure of the relational web as tribal members restored their confidence in tribal leadership since they had a direct say in who governed their people. After operating under government-appointed leaders for almost ten years,

²⁹⁵ Because the separation of mineral rights benefitted the Osage people enormously, some historians have tried to credit one individual in leading the Osages to this decision. Often James Bigheart is the likely suspect due to his role as the head of the Tribal Council since he felt that the “salvation of his people would occur through capitalism.” However, ascribing credit to one individual is more typical among western society and is inappropriate to do so in this case. The Osage Tribal Council worked as a cooperative body with a single spokesperson. All decisions made by the council were voted on as a body, never unilaterally. McReynolds, 188-89; Baird, 70; Haskell Institute Club; Dennison, 104.

²⁹⁶ “Osage Allotment Act,” June 28, 1906, 34 Stat. 539 in Barney, 53; Osage Tribal Council, *Osage Indian Tribe Centennial Celebration, 1872-1972*; Baird, 71; Wilson, “Chief Fred Lookout,” 49.

tribal members rejoiced that they could once again rely on the guidance of their elected leaders as they had done since they moved to Indian Territory.

After establishing a new and fair tribal government structure, tribal leaders turned their attention to validating the tribal rolls. By the twentieth century, tribal members witnessed several censuses conducted among them. However, with allotment impending, they requested one final census to determine the exact number of tribal members and hopefully eliminate fraudulent individuals from the official rolls prior to the disbursement of all tribal assets and lands. The Allotment Act declared the Osage rolls closed on January 1, 1906, but children born before January 1, 1907 were included on the official rolls. Since a previous investigation of fraudulently enrolled tribal members occurred in the 1890s, the Office of Indian Affairs allowed the Principal Chief to submit a list of questionable tribal members by September 1906 for further investigation. Although the Secretary of Interior allowed an additional investigation, he made it clear this would be the final investigation into the tribal rolls. Even though names could be submitted for investigation in 1906, the record indicates the larger investigation occurred during the Houston-Scott Commission. Instead, tribal leaders focused their energies on many issues in 1906, and hindsight demonstrates the Osages had become more inclusive since they allowed mixed-race children to be counted on their official rolls and even extended the time of enrollment for unborn children.²⁹⁷

²⁹⁷ The result of the second investigation of the tribal rolls resulted in the removal of an additional 37 individuals. It is important to note the measured response of the tribal government since they examined each case individually. In one example, an orphaned white girl had been adopted by an Osage family and resided with them since she was a toddler. Tribal leaders decided she should remain on the rolls. While she only received annuities from the tribe, her inclusion at all demonstrates the Osages examined individual's legitimacy and history with the tribe rather than basing their decisions solely upon race. Francis E. Leupp, "Annual Report of the Commissioner of Indian Affairs, Washington, D.C., September 30, 1908," in the *Report of the Commissioner of Indian Affairs* (GPO: Washington, D.C., 1908), 115. Wilson, "Chief Fred Lookout," 48; "Osage Allotment Act," June 28, 1906, 34 Stat. 539 in Barney, 40; Callahan, 15.

Closing the tribal rolls created clear parameters so they could efficiently distribute tribal lands and funds, but it also caused some unforeseen problems, particularly for future generations. Parents of unborn children worried about the due date of their children as the deadline approached. Children born before the deadline were guaranteed an equal share of tribal assets, but some, like a “luckless girl, who came into the world half an hour after midnight [the deadline], was dubbed Mary-Too-Late.” The Tribal Council debated reopening the tribal rolls so children born since 1908 could receive their own allotment, called a headright, but they decided doing so would invite many fraudulent claims.²⁹⁸ The Council debated the issue again in 1917 and 1930, but council members defeated the measure each time. The ramifications of closing the rolls with no additions created divisions between those who did and did not receive headrights. These divisions did not exist immediately, but as time progressed, they became clear and increased dramatically among the second and third generations. Anthropologist Dennison recounted how her father felt “estranged...from the larger family” since her grandfather had received a headright, but his brothers had not. After he married and started a family, his mother frequently showed favoritism to her grandchildren, who did not have a headright. This created tensions among the family as the younger generations did not understand why they had been treated unfairly by their loved ones.²⁹⁹

Tribal members who received individual allotments and a portion of the annual income, as well as the federal trust fund, received one headright. The headright system allowed for a simple division of land and assets, but the Osage Nation also connected voting rights to each headright. A headright could not be sold or transferred, but it could be inherited upon one’s death. Therefore, as the years passed, inequalities became apparent as heirs inherited fractions of

²⁹⁸ Workers of the Writer’s Program of the WPA, 288.

²⁹⁹ Wilson, “Chief Fred Lookout,” 49; Dennison, 104.

headrights. Osages born after the closing of the rolls could not vote in tribal elections until they received their inheritance from their elders. This system eventually led to a society of haves and have-nots. As Principal Chief Geoffrey Standing Bear stated, “If you had two headrights you were twice as human as someone who did not have a headright. [The system] got property and political rights confused.” Fortunately, the Osage Nation adopted a new constitution in 1994 which disentangled political and property rights. The Tribal Council developed the headright system to help protect Osages from criminals and outsiders from infiltrating tribal politics. In that respect, headrights did succeed and allowed the Osages to govern their people throughout the oil boom period.³⁰⁰

Allotting the extensive Osage Reservation naturally became the largest duty of the Osage Allotting Commission. They were responsible for the smooth transition and settling any disputes between tribal members quickly and fairly. Many Osages worried allotment would force tribal members onto smaller tracts of land while the remainder would be sold to white settlers. Some commented that the reservation would only have enough land for just tribal members and what could potentially be left over “would be of no value to settlers for farming purposes” due to the quality of the land.³⁰¹ For two decades, Osage leaders utilized this concern as their primary defense in response to allotment, but as statehood approached, they began to look closer at their options. As they negotiated allotment terms, providing “for an equal division of the lands and funds” among all tribal members became non-negotiable for tribal leaders. They simply refused to allow any of their lands to be classified as “surplus lands” to be auctioned to white settlers.³⁰² The Osages came to this decision after witnessing the Ponca, Otoe, Missouri, and Kaw Nations

³⁰⁰ Dennison, 1; Glasscock, 262; Smith, 194-95, 189.

³⁰¹ Miles, “Report of Osage Agency, Oklahoma, August 27, 1890,” 190.

³⁰² “Osage Allotment Act,” June 28, 1906, 34 Stat. 539 in Barney, 44.

allot any potential surplus lands to their own tribal members. It is likely that some tribes, such as the Kaw Nation, did not possess reservations large enough to warrant any surplus lands after allotment, but the Osage Nation insisted they equally distribute their land to all tribal members.³⁰³ This decision protected the tribe from “settlement runs like that of the Cherokee Strip,” which ensured their people stayed connected to one another and their land.³⁰⁴

The Allotment Commission conducted three separate rounds of allotment selections for every tribal member to keep the proceedings as fair as possible. The first round consisted of each tribal member making their “first selection” of a 160-acre parcel by September 1906. The first selection could only be granted if the land had not been previously chosen or have a home located at that location. If someone had established a homestead prior to allotment, they could claim that as their first selection. However, some original claims contained hundreds of acres which allowed the individual to capitalize on the leasing economy. Those who had previously claimed more than 160 acres of land had to relinquish the excess to be dispersed throughout the tribe. With the first selection completed and the properties registered by the Osage Agent, the second round of selections commenced via “the wheel plan.” After some debate and discussion between the Allotting Commission and the Tribal Council, they agreed to use two wheels (simply called the “name wheel” and the “number wheel”) to randomize both the names of individuals and the order of selection. After the second and third selections, each tribal member had a claim to 480 acres. At the end of all three selection periods, a total of 399,717.09 acres remained unassigned to townsites, cemeteries, railroads, or individuals. Since all the prime land had been allocated, Commissioner Leupp stated of what remained, “Some of it can not [sic] be

³⁰³ Frantz, “Report of Osage Agency, Pawhuska, Oklahoma August 25, 1904,” 298; Millard, “Report of Agent for Osage Agency, Pawhuska, Oklahoma, September 1, 1906,” 318; McReynolds, 305.

³⁰⁴ Callahan, 14.

classed as even good pasture land,” but some of the areas in question had demonstrated signs of having “valuable mineral deposits.” The Osage Agent then equally distributed the remaining lands to ensure all tribal members held allotments equaling a total of 659.51 acres.³⁰⁵

Having completed all three rounds of selections, each tribal member chose which allotment they wanted to claim as their homestead. To delineate between homestead claims and the remaining lands, the Office of Indian Affairs called the remaining two sections “surplus lands,” but this classification existed in name only. According to the Allotment Commission, “surplus lands” remained the property of the individual allottee rather than being sold to settlers. In the interest of fairness, allotments for minors could be chosen by their parents, and the Osage Agent selected lands for anyone who “fails, refuses, or is unable to make such selection within said time.” At the end of the selection period, every man, woman, and child in the Osage Nation held roughly 658 acres of land. The equality of this process further emphasized the value of relationships among tribal members. Allotment among the Osages demonstrated the importance of the internal relational web for the benefit of all tribal members.³⁰⁶

During Lewis Meriam’s investigation into the state of Indian Affairs around the country, he derided the practice of allotment proceedings since officials emphasized the need to conclude the process as quickly as possible. Meriam stated that even those who had “exercised their privilege” and selected their own allotments like the Osages frequently chose lands that allowed them to continue “their primitive mode of existence.” He argued that Native Americans did not understand the value of the land, which made them susceptible to losing their lands to whites

³⁰⁵ Francis E. Leupp, “Report of the Commissioner of Indian Affairs, Washington D.C., September 30, 1907,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1907), 120-121; Leupp, “Annual Report of the Commissioner of Indian Affairs, Washington, D.C., September 30, 1908,” 115; “Osage Allotment Act,” June 28, 1906, 34 Stat. 539 in Barney, 41-44; Robert G. Valentine, “Report of the Commissioner of Indian Affairs, Washington, September 15, 1909,” in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1909), 41.

³⁰⁶ “Osage Allotment Act,” June 28, 1906, 34 Stat. 539 in Barney, 41-44; Haskell Institute Club; Callahan, 15.

who “were without scruples as to the methods to which they resorted.” Lewis Meriam did not understand the type of value Native peoples placed in their lands. The Osages had moved and ceded lands through several treaties and did not want to see the remainder of their lands slip away. The Osage Nation, much like other Native Nations, understood their strength corresponded to the lands they held and the intrinsic relationships they formed to each other and their homelands. Just like their ancestors had learned, they needed land to establish a home to provide shelter to their people, support their communities, and allow their relational web to thrive among tribal members and their allies.³⁰⁷

Through the foresight of Osage leaders, tribal members benefited from selecting their allotments and receiving a deed executed by the Principal Chief and approved by the Secretary of Interior. Providing a deed to individuals for their land selections meant they had the sole right to occupy and do what they liked with the land. However, to protect those rights, the Osage Allotment Act stipulated that the Osages allotments were “inalienable and non-taxable until otherwise provided for by Congress.” The “surplus lands” remained inalienable for a period of twenty-five years, while the designated homestead lands remained tax-free for heirs over half Osage ancestry until 1959. Some Osages who requested and received a certificate of competency could sell their surplus lands immediately, but they had to retain their homesteads for twenty-five years.³⁰⁸

Even as some tribal members sought claims and homesteads before allotment, others resisted and wished to dwell in communal villages as they had for generations. Osage Agents called these “Indian villages” and frequently referred to them as a hindrance to the goal of

³⁰⁷ Meriam, 470-471.

³⁰⁸ A larger discussion of competency can be found in Chapter 6: The Question of Terror. In short, the designation of competency allowed individuals to step into the role of the average citizen who could handle their own affairs. “Osage Allotment Act,” June 28, 1906, 34 Stat. 539 in Barney, 52, 43-44, 86; Haskell Institute Club.

“civilization” and ultimately allotment. However, these villages featured prominently in Osage culture and society as they accommodated the celebration feasts, community gatherings, and the yearly I’n-Lon-Shka dances, all of which supported community relationships and, therefore, the tribe as a whole. During the allotment proceedings, the Osage Tribal Council recognized the importance of communal property and stipulated land be set aside for three villages “exclusively, for dwelling purposes.” These villages were established just outside the three largest settlements on the Osage Reservation: Pawhuska, Hominy, and Grayhorse.³⁰⁹

The Allotment Act allowed the Osages’ successful leasing economy to continue under the same procedures, but tribal authorities dictated some additional rules concerning their newest addition to the leasing family – oil. Still, in its infancy, oil development started slowly, but tribal members planned for future profits. To protect their interests, the Tribal Council decided to reserve all oil, gas, coal, or any other minerals to the Osage Nation for twenty-five years. This meant that once the Secretary of Interior approved leases, all mineral development and one-sixth of the profits belonged to the Osage Nation as a whole, rather than the individual landowner. This departed from other leasing endeavors since individuals had been able to lease their claims to ranchers and farmers independently of the tribe. The Tribal Council did not want to take a chance that mineral rights could be sold, so they ensured the Osage Nation benefitted equally from any profits. The Allotment Act originally stipulated that after the twenty-five-year period of reserve, the mineral rights could transfer to the individual landowner, but Congress extended the communal nature of mineral rights in 1921 upon the request of the Tribal Council. This

³⁰⁹ Grayhorse was a thriving settlement with a trader and other agency approved businesses, but when the rail lines came through the reservation Grayhorse was bypassed. Instead Fairfax was established four miles northwest and soon became the larger settlement. The original townsite of Grayhorse became known as simply the Grayhorse Indian Village. Ripley, “Report of Indian Trade Supervisor, Osage Agency, Pawhuska, Oklahoma, August 15, 1903,” 273-274; Callahan, 15; “Osage Allotment Act,” June 28, 1906, 34 Stat. 539 in Barney, 46; Wilson, “Chief Fred Lookout,” 48-49.

action kept the mineral rights in possession of the Osage Nation until April 8, 1946, “and so long thereafter as oil and gas was found in paying quantities.”³¹⁰

The Osages' foresight in safeguarding their mineral resources placed them in an advantageous economic position as the oil industry matured, but the Tribal Council also did something quite radical – they separated the mineral rights from the land. Prior to this, Congress assumed “that in the absence of a clear expression to the contrary, tribal possession extends ‘to the center of the earth.’” The idea of separating mineral rights from the physical land started with the Curtis Act in 1898.³¹¹ Even though the Five Tribes had the opportunity to separate the two and reserve mineral rights for the benefit of the collective tribe, each tribal nation decided to keep them together since they believed their tribal members would be able to keep their lands. Additionally, the Curtis Act stipulated that if a tribe chose to separate the mineral rights, they would be held in trust by the federal government. The Five Tribes did not trust the federal government’s actions and motivations, so they chose to waive this option. The always watchful Osages witnessed the crimes and attempts of white settlers to defraud citizens of the Five Tribes after their allotment and decided they did not want the same issues to plague their people.³¹²

The Tribal Council stated they wanted to split the mineral rights from the land, but they wanted the royalties for all mineral leases to be held by the Osage Nation, not the federal government. This audacious proposal received approval from the Office of Indian Affairs, likely because the Osages had seen limited profits from mineral developments after a decade of

³¹⁰ *Federal Indian Law Handbook*, 1047-1049; “Osage Allotment Act,” June 28, 1906, 34 Stat. 539 in Barney, 48, 45, 51; Haskell Institute Club.

³¹¹ Theodore Roosevelt recommending splitting mineral and land rights as a preemptive maneuver to keep oil monopolies from forming. This also protected public lands from being bought for the sole purpose for economic development. Ambler, 43-45.

³¹² On Five Tribes allotment, and subsequent trials with settlers and losing much of their former lands, see Angie Debo’s *And Still the Waters Run: The Betrayal of the Five Civilized Tribes* (Newark: Princeton University Press, 1973). *Federal Indian Law Handbook*, 313; Ambler, 43-45, 47.

exploration, and the government desired to allot all Native lands in Oklahoma as quickly as possible. This approval made the Osages the first Tribal Nation to separate the physical land ownership from mineral rights. As a result, tribal leaders enabled their citizens to remain connected through their relational web rather than separated by extreme wealth disparities from those who had oil on their lands and those who did not.³¹³ Soon after, other tribal nations chose to hold their mineral rights in common, but many tribal nations did not have the option since they allotted much earlier and each allotment proceeding featured a unique set of circumstances. The shrewdness of the Osages placed tribal leaders in a position to be better able to protect their people. They made sure every tribal member on the 1906 tribal rolls was treated equally and fairly, which went a long way to soothing any factions that may have formed throughout the allotment process. Tribal leaders actively worked to maintain their internal relational web as they entered new enterprises and a new era of tribal governance.³¹⁴

Distributing the land constituted a large part of the allotment process, but the Osages also possessed considerable monetary assets that needed to be divided among tribal members. The United States Treasury held the money the Osages received for the sale of their reservation in Kansas in accordance with the Canville Treaty. By 1906, that trust had reached \$8,562,690, with the interest distributed to tribal members at quarterly payments. Additionally, the Osages' diverse economic interests allowed an average yearly income of one million dollars.

³¹³ For more information about wealth disparities among the Creek, see Tanis C. Thorne's *The World's Richest Indian: The Scandal over Jackson Barnett's Oil Fortune* (New York: Oxford, 2005). Jackson Barnett received immense royalty payments for oil found on his allotments, while many of his neighbors and fellow Creeks did not see payments anywhere near his fortune. Unfortunately for Barnett, that immense fortune also placed him in a position where he was targeted for scams and criminal activities.

³¹⁴ Ambler, 43-44; Alice Marriot and Carol K. Rachlin, *Oklahoma: The Forty-sixth Star* (New York: Doubleday, 1973), 117.

Table 4.1
1906 Annual Income and Tribal Assets

Source of Income	Income
Grazing Tax	\$9,755
Rental of rooms in Council Building	\$1,345
Stone and Timber Sales	\$2,711.20
Oil & Gas Royalties	\$228,267.34
Permit Taxes	\$4,636.70
Water Permits	\$700.08
Sale of old iron	\$6.36
Railroad Damages	\$6,091.36
Pipeline Damages	\$1,181.10
Treasury Warrants on Requisitions	\$631,374.36
Forfeited Pasture Checks	\$3,063.07
Pasture Rent/Grazing Leases	\$110,295.01
Ice Sales	\$2,925.67
Beef Hide Sales	\$42.54
Condemned Property Sales	\$196
School Farm Produce Sales	\$776.20
Town Lots Sold	\$221,434.64
Royalty on Hay	\$17.50
Balance from Fiscal Year 1905	\$2,732.01
Funds held in trust in the U.S. Treasury	\$8,562,690
Total Yearly Income:	\$1,227,551.14
Total Assests:	\$9,790,241.14

Source: Millard, "Report of Agent for Osage Agency, Pawhuska, Oklahoma, September 1, 1906," 312; Newman, 191.

Table 5.1 reports the annual income and tribal assets that were held by the Osage Nation collectively in 1906. These assets also needed to be distributed, but to simplify the process, the Allotment Act kept the quarterly payments intact. Whenever the Osage Nation received payment for grazing leases, timber sales, or oil royalties, that money stayed in a tribal account until the

quarterly payment, where it was dispersed on “a basis of a pro rata division.” Agricultural or grazing leases negotiated by individuals continued to be credited to their individual accounts.³¹⁵

The federally held trust fund for the Osages created a more complicated situation. In 1906, the principal of the Osages trust fund equaled \$8,373,658.54 for the sale of their Kansas lands. Supreme Court Justice Brandeis explained that “Congress, concluding apparently that the enjoyment of wealth without responsibility was demoralizing to the Osages, decided upon the policy of gradual emancipation,” therefore, the principal of their trust would not be distributed in one payment.³¹⁶ Senator Henry L. Dawes, the namesake of the General Allotment Act, argued delayed disbursements of the Treasury funds would benefit the tribe since tribal members would take the money “and have a great feast with it as long as it will last.”³¹⁷ To prevent what many considered the inevitable wanton spending and to support “civilization” efforts, Congress agreed to divide the trust into individual accounts totaling \$3,819 per tribal member that would be held for a period of twenty-five years. Upon the expiration of that period, in 1931, tribal members would receive their “pro rata share of the fund.” Although Congress’s paternalism featured prominently in their decision, the Osage Tribal Council did not refute the decision since they could rely on their leasing economy and the interest of their funds which allowed the Nation to remain the wealthiest per capita nation in the world.³¹⁸

The Osage Nation had previously drawn the interest on the principal of their money, which had reached “nearly \$1,000,000,” by 1906. When distributed, “every man, woman and child” received an additional \$500 for their 1906 quarterly payments. The interest from the

³¹⁵ Callahan, 15; *Handbook of Federal Indian Law*, 1036.

³¹⁶ *McCurdy v. United States*, 246 U.S. 263 (1918).

³¹⁷ Dawes, “The Administration of Indian Affairs,” 82.

³¹⁸ “Osage Allotment Act,” June 28, 1906, 34 Stat. 539 in Barney, 49; Callahan, 15; Baird, 71; Lamsam and Johansen, 277; Haskell Institute Club.

funds continued to be paid to individuals at each quarterly payment until the twenty-five-year waiting period ended. Those too young to take possession of their financial affairs relied on their parents or legal guardians to receive and protect their allotments until they came of age.³¹⁹ The Osages' money in the Treasury slowly increased throughout the late 1800s as more of their Kansas lands sold. Even though the Osages moved to Indian Territory in 1871, the last of their lands did not sell until 1907, when they received their final payment to the trust fund. Some of the lands that lingered were less fertile, no access to water, and odd-sized parcels, but the last sale consisted of fifty-four sections that had been set aside for schools. The Osages received an additional \$69,120, which was then divided among the individual accounts.³²⁰

The Osage Tribal Council resisted allotment pressures until they were confident they would be able to negotiate from a position of strength. Waiting to the last possible moment to allot their lands allowed the Tribal Council to watch and learn from multiple tribal allotments. Using that information, they negotiated for the best outcome and protected their people from being taken advantage of by whites or forced to undergo a feverish land run. In the process, the Tribal Council safeguarded their land and their federal trust money, allowing their people to possess immense wealth. Agent Frantz and other agency employees grew concerned and stipulated that the Osages should not receive large amounts of money during the quarterly payments since they believed tribal members would easily lose it, either through theft or reckless spending. Frantz even stated that the Osages wealth meant that “He does not like to work; there is no reason why he should work, and not being compelled to ‘earn his bread by the sweat of his face,’ he absolutely refuses to labor and looks with disdain upon the man who does. There is no hope for changing the old Indian; why waste valuable time on the impossible?” This reductive

³¹⁹ *Federal Indian Law Handbook*, 1031, 1036.

³²⁰ “Osage Allotment Act, June 28, 1906, 34 Stat. 539 in Barney, 49, 58.

description does not account for the Osages' cultivation of their wealth through their negotiating and diplomatic strategies as well as their reliance on their external relational web.³²¹

The Osage Allotment Act serves as yet another example of the Osages reacting to the changing world around them and in so doing preserving their relational web by avoiding potential factionalization from within and retaining their lands for the benefit of the Osage Nation. For the Osage Nation, allotment had loomed and threatened them for two decades before they consented to draft the Osage Allotment Act. At the same time the threat of allotment existed, the Osages embraced an additional economic opportunity. Having learned the benefits of a leasing economy for ranchers looking for pastures and farmers seeking fields, tribal members soon started to wonder if they might be able to utilize the rainbow-like film they saw on the surface of creeks and ponds. It soon became apparent that oil development and leasing could easily provide the Osages with not just another source of income but also wealth and influence at the national level.

³²¹ Frank Frantz referred to Genesis 3:19 as God cursed Adam and Eve in the Garden of Eden, “By the sweat of your brow you will eat your food until you return to the ground since from it you were taken...” Gen. 3:19a NIV. Ripley, “Report of Indian Trade Supervisor, Osage Agency, Pawhuska, Oklahoma, August 19, 1905,” 313; Frantz, “Report of Osage Agency, Pawhuska, Oklahoma, August 16, 1905,” 311.

Chapter 5

Oil Development and Wealth

The Osage Nation successfully negotiated their own terms for allotment, which placed them in an advantageous position as Oklahoma Territory became a state on November 16, 1907. Tribal leaders relied on their predecessors' record of effective negotiations to continue to provide for the Osage Nation even as more of the issues they faced reflected a rapidly modernizing world. The key hallmark of the Osages' entrance into this modern world came through the discovery and subsequent production of oil and natural gas on their reservation. Once the oil industry began in Pennsylvania, oilmen began looking for new opportunities throughout the country. Osage leaders understood the value of the natural resource, so they quickly incorporated oil into their leasing economy. The initial lease did not provide the Osages with the stereotypical fortune many have come to associate with the Nation, but that is likely due to the fact that the Tribal Council had limited input into the precise terms of the lease. However, when the Tribal Council asserted their voices, they negotiated new terms of lease operations that provided extreme wealth and the most significant expansion of their relational web to that point. In many ways, the inclusion of oil development into their lives benefitted the Osages; however, it also presented new and dangerous threats for tribal members. Throughout this time, the Tribal Council maintained control of leasing arrangements to ensure positive outcomes for the Osage Nation. Whenever threats or exploitation made itself known, tribal leaders used all resources at their disposal to protect their people.

Prior to developing the oil industry in the United States (the first oil well drilled in the country was located near Titusville, Pennsylvania in 1853), oil seeps were common features in specific parts of the country, but people had limited uses for the natural resource. Some

skimmed the oil from the surface of rivers and streams or soaked rags in the liquid to use for fuel or axle grease, but there was limited commercial value since people relied on whale oils and wax for lighting while mechanical devices typically ran on steam. Osages and other Native peoples utilized oil found across modern-day Missouri, Kansas, and Oklahoma to treat various ailments, particularly rheumatism. These “medicine springs” drew people from surrounding areas for treatment, much like the hot spring spas and health resorts in the late nineteenth and early twentieth centuries, since many individuals believed ailments stood “no chance at all” when treated with oil. An oil spring located along the Washita River drew many Texans and Arkansans to the Choctaw Nation seeking treatment for “all chronic diseases.”¹ As more settlers came to Kansas and eventually Indian Territory, they witnessed Native uses for oil springs as well as the supposed entertainment or novelty of putting “hollow weeds into the cracks of the earth and set fire to the gas that escaped through them ... sometimes [they] burned for days before it could be extinguished.”²

Due to Indian Territory being reserved for Native settlement until the 1880s, many people who may have been interested in oil production did not have access to the lands. Yet, the first oil well in Oklahoma was discovered in 1859 near Salina, Indian Territory, due east of the Osage Reservation. This well produced enough to provide local lamp oil but did not become a commercial success since the original miners abandoned the mine since they had been attempting to locate salt mines instead. The Civil War put a damper on oil exploration, but after the Confederates surrendered in 1865, oil developers started to explore the Osages' ancestral lands for signs of oil seeps. The search yielded the first commercial oil well in Oklahoma in

¹ Glasscock, 112-113; McReynolds, 85; Dan T. Boyd, “Oil and National Gas: Putting Oklahoma on the Map,” in *Main Street Oklahoma: Stories of Twentieth-Century America*. Linda W. Reese and Patricia Loughlin, eds. (Norman: University of Oklahoma Press, 2013), 78.

² *Tulsa Democrat*, November 20-27, 1903.

1889 near Chelsea, which cattlemen used as a dipping station in an attempt to stop the Texas Tick Fever. Having developed a thriving leasing economy between themselves and cattlemen and farmers, the Osages as a tribal entity did not have a need for oil nor the desire to locate potential well sites on their reservation though some individuals expressed interest in finding oil for local use. One tribal member, Sylvester Soldani, discovered a gas well in 1893 and began to supply Ponca, now Ponca City, with natural gas.³

John N. Florer, a licensed trader among the Osages who established the first permanent trading post in Pawhuska and later moved to Grayhorse, seemed poised to capitalize on the previously untapped potential of oil and gas development in the Osage Reservation. The Osages respected Florer for his fair-trading practices, but when he tried to encourage the Tribal Council to consider exploring mineral development throughout the 1880s, they refused. They maintained a lucrative leasing economy with ranchers and farmers, and it is likely they were concerned about the effect oil wells may have on the desirability of their land to potential lessees. To the Osages, mineral leasing was a gamble, and they simply were not willing to risk harming or alienating members of their external relational web for the potential of earning more money. Florer disagreed with their decision but dropped the issue until the 1890s. He frequently traveled to southern Kansas to purchase goods, receive shipments to sell at his store, and he passed through the region to visit his wife in Colorado, where she recovered from illness. During one of these visits, he learned of a relative newcomer to Kansas by the name of Foster.⁴

The Foster brothers (Edwin B., Henry, and J. Barclay) became very wealthy from operating two banks in their home state of Rhode Island. Due to the rapid settlement of Kansas and Indian Territory, Henry Foster decided to further diversify his interests in the West by

³ Boyd, 78; Smith, *Big Bluestem*, 185; Mathews, *Life and Death of an Oilman*, 74.

⁴ Ellis, 18, 22.

moving to Independence, Kansas, to establish the Hull Bank in 1871, just as the Osages relocated to Indian Territory. Foster heavily invested in the Verdigris Valley, Independence, and Western Railroad in the 1880s and took advantage of the increasing popularity of cattle drives by establishing the Independence Cattle Company in 1884. The cattle business proved to be quite lucrative, and Foster positioned himself to quickly access Native lands, much like other settlers lining the Indian Territory border. By the 1890s, Foster invested in the Elgin Cattle Company with G. M. Carpenter, Mr. Goster, A. C. Stitch, and Leroy Cahill and quickly signed a grazing lease with the Osages on February 22, 1892. This may have been Foster's first business arrangement with the Osages, but it would not be the last as Florer had other ideas for economic development.⁵

Upon meeting Henry Foster, John Florer capitalized on Foster's interest in Indian Territory by informing him about the oil slicks within the Osage Reservation. He suggested Foster's capital would allow him to amass a great fortune through oil development, but only if he could obtain a lease. Florer assured Henry that he alone could assist in procuring a lease due to his long history among the Osages and the trust he had fostered with tribal members. Foster seemed intrigued by the possibility, particularly since he had inquired about mineral leasing on Osage lands in 1891 but had been turned away. After Florer approached him, Foster took the matter to the Commissioner of Indian Affairs, D. M. Browning, in 1895. Commissioner Browning surveyed the conditions proposed by Foster and expressed three clear concerns: 1) how would oil development affect allotment, especially since the Osages had consistently voiced their opposition to dividing their lands; 2) would Foster's proposed "blanket lease," which

⁵ Ellis, 14-15; Glasscock, 144-45; T. S. Salathiel to J. B. Foster, December 17, 1896, B1, F6, Foster Brothers Collection, RH MS 1277, Kenneth Spencer Research Library, University of Kansas Libraries [hereafter referred to as the Foster Brothers Collection]; Burrill, 79.

granted him access to the entire Osage reservation, negatively affect the Osages; 3) Osages already had considerable wealth and did not need additional income to support what Office of Indian Affairs employees saw as idleness. Browning did not provide an immediate answer but tasked Osage Agent Colonel Freeman to investigate the potential risks for allowing mineral leasing on tribal lands. Commissioner Browning's measured approach and the subsequent investigation acted to protect the Osage Nation from outright fraud.⁶

Office of Indian Affairs employees were most concerned about the effects mineral leasing could pose for allotment. Agency employees felt the pressure to allot from settlers, territorial government officials, government employees, and Congress. This created a tense situation since the Osage Tribal Council continued to deny any proposed measures for allotting their lands.⁷ If Agent Freeman had any fears oil leasing would hamper progress towards allotment, he would have disapproved the measure. He believed, rather, that the proposed lease would "be advantageous to the Osage tribe." He also supported an idea that Florer originally proposed to Foster, lease the entire reservation so "the expected evils and disruption of life and lands could be minimized." Freeman believed that arrangement preferable since the Agency could easily supervise the operations of a single developer, ensuring the safety of Osage people and their lands. In fact, he believed that the addition of a new industry, possibly drilling up to 100 oil wells (a gross underestimation of the future oil boom), and hiring a small army of roughnecks to perform the labor would benefit the region since more people on the reservation would reveal "the hiding places of the horse thieves and others who infect this country."⁸ Foster

⁶ Smith, 186; Miner, 164.

⁷ Miner, 165; "Hewitt Takes Second Place Among Fields in Mid-Continent," *National Petroleum News*, 12.37 (September 15, 1920), 61.

⁸ H. B. Freeman to Commissioner of Indian Affairs, January 14, 1896, Box No. 349, RG 75, Records of the Bureau of Indian Affairs, Special Cases, 1821-1907, Osage – Oil and Gas 1895 to 1904, NARA-DC [hereafter referred to as Osage – Oil and Gas Special Cases].

put to rest any concerns that this lease might become a monopoly by asserting the set price of royalties would prevent any manipulation of pricing, which was a hallmark of monopolies across industries. Additionally, Foster argued the blanket lease would be more advantageous for the Osages than the licensed traders who had frequently participated in price gouging.⁹

As Agent Freeman conducted his investigation into the effects of mineral development among the Osages, Henry Foster contacted attorney and judge George Chandler, who had previously served as the Assistant Secretary of the Interior. Foster hoped Chandler might represent his interests and help speed the approval of a lease; however, Chandler told Foster he must wait for the Commissioner's approval since the lease could only be drafted by employees within the Office of Indian Affairs. Foster grew concerned as he waited for the results of Freeman's investigation as it had been delayed due to the quarterly payment. Instead of waiting, Foster wrote a letter to Commissioner Browning, hoping to assuage some of his fears. Foster focused his attention on the acreage required for drilling by explaining that even if "we should put down ten thousand wells (an absurd proposition) we would require the use of only about 500 acres." He further claimed they would require express permission from land owners before conducting any excavation, and once a well was completed and actively drilling, the land owner could use the vast majority of their land save "up to within a few feet of our derrick." Foster understood the Commissioner's hesitation but attempted to provide some reassurances that his proposal of a "blanket lease" would not overrun the Osages or drive them from the reservation altogether.¹⁰

⁹ Henry Foster to Commission of Indian Affairs, October 22, 1895, Ibid.

¹⁰ Foster also expressed concern about the prospect of allotment. He argued that if the lease were to be approved then it had to be written as a clearly defined sub-surface lease so that they and their investors could be assured oil and gas development would continue regardless of the results of allotment. H. B. Freeman to Commissioner of Indian Affairs, January 14, 1896, Box No. 349, Osage – Oil and Gas Special Cases; Henry Foster to Commission of Indian Affairs, October 22, 1895, Ibid.

The last concern voiced by Browning related to the Osages' wealthy status. "Friends of the Indians," social reformers, and employees of the Office of Indian Affairs saw their primary goal as "civilizing" the American Indian, which they theorized only came as a result of education and manual labor. Due to the Osages' leasing economy and propensity to hire white laborers to assist or perform work in their homes or farms, many looked on disdainfully as tribal members circumnavigated many supposed "civilizing efforts." Agent Freeman stated the Osages were wealthy, but in his report to Browning, he only commented on the per capita payments received from the interest on their money held in trust by the U.S. Treasury. By looking at that single source of income, he claimed the Commissioner had to admit "that a per capita income of \$225 per annum, is not great personal wealth." Foster also commented on the wealth of the Osages, asking, "Is it not their duty as well as privilege to make their land as productive and remunerative as possible? That they are wards of the Government, and rich, is no fault of theirs." It is uncertain why Freeman would overlook the profits gained by grazing and farming leases since they constituted the majority of their wealth, but it may be related to some financial gifts made by the Fosters through their advocate, John Florer. Florer had, in fact, asked Foster for an advance of \$1,000 to influence an unnamed party within the Osage Agency, but whether or not this bribe made its way to Freeman's pockets is unclear. Regardless, Freeman's minimization of Osage wealth coupled with the fact that the reservation had "never been tested" and no one knew if a profit could be made in oil development, constituted an endorsement for the proposed Foster lease. Freeman concluded his findings, stating that the risks being taken were shouldered by Foster's company alone and that, "In this lease the Indians have everything to gain and nothing to lose."¹¹ Freeman's analysis, coupled with Foster's persistence, demonstrated through letters

¹¹ E. B. Foster to J. B. Foster, March 3, 1896, B1, F16, Foster Brothers Collection; Ellis, 21.

and frequent visits to Washington, led Browning to agree to present a drafted lease to the Osage Nation for their approval.

While Henry and then later Edwin Foster worked their political connections in Washington, Chief Robeck and councilmembers grappled with whether or not they would extend their relational web to include a new economy and an Eastern industrialist company. Since the proposed Foster lease required serious attention, the Tribal Council first examined the lease in January 1896 but did not vote on the issue until March 14th. This delay allowed time for council and tribal members to read, understand, and debate the proposal so “that the Indians might know all about it.” The Foster lease contained measures that allowed drilling teams access to the land, but they required express permission from those who may have claimed or improved the land prior to construction. Once a well started producing oil in quantities sufficient to sell, the Fosters would give the Osages one-twelfth of the oil extracted.¹² The Tribal Council negotiated this point and ultimately secured one-tenth of the proceeds from oil. Because the industry for natural gas remained limited at best, the Osage Nation would be given all the natural gas collected in addition to fifty dollars per year for each gas well. Additionally, the Osage Nation had the express right to use any gas found for government buildings and schools free of charge. If the Fosters constructed oil derricks but the well did not produce in profitable quantities, they had to leave any improvements constructed on the Osages lands so tribal members could return to capped wells and possibly derive a profit from the wells at a later date. Lastly, the lease allowed for various conditions and contingencies that would void the lease immediately if not met. These conditions ranged from not drilling a well within six months of the start of the lease or found paying quantities within eighteen months, if they paid royalties later than thirty days,

¹² E. B. Foster to J. B. Foster, April 7, 1896, B1, F16, Foster Brothers Collection; Approved Oil and Gas Lease draft, April 8, 1896, Box No. 349, Osage – Oil and Gas Special Cases.

committed unwarranted waste during mining operations, or introduced liquor, or committed other illegal activities on the reservation.¹³

As negotiations commenced with the Tribal Council, Henry Foster contacted Florer and asked him to be his personal emissary among the Osages. More specifically, Foster asked Florer to act as a behind-the-scenes representative with Colonel Freeman, the current Osage Agent. Florer readily agreed since he received a percentage of future oil profits as well as cash bonuses for his work to influence the Tribal Council to accept the terms of the impending lease. With Florer trying to persuade and influence individuals at the Osage Agency and things appearing “in first class shape,” Foster turned his attention to cultivating a core group of political heavyweights in Washington, D.C., to ensure the proposed lease quickly worked its way through all necessary signatories. In addition to talking directly to the Secretary of Interior, the Commissioner of Indian Affairs, and their assistants, Foster “brought big pressure to bear” on Hoke Smith, the Secretary of Interior, through his relationship with Senator and former Governor of Georgia, General Gordon. Gordon himself was friends with Secretary Smith, but their bond had been further strengthened through the marriage of Gordon’s daughter and Smith’s brother. With growing support in D.C., Henry boasted to his brother Ed, “I know I am all right and I am going to get that lease, not just as I would like to have, but get it [Emphasis in original].”¹⁴ For all of Henry Foster’s scheming and glad-handing in Washington, he worried that an unknown entity would offer the Tribal Council “a much larger slice,” a fear perpetuated by John Florer reporting rumors that Standard Oil might be interested in the Osage Reservation. However, Henry Foster remained hopeful the lease would be approved until the day he died –

¹³ Osage Tribal Council, *Osage Indian Tribe Centennial Celebration*, n.p.; Hicks, 19-20; Freeman, “Report of Osage Agency, Pawhuska, Oklahoma, October 2, 1896,” 260; Mathews, *Life and Death of an Oilman*, 77.

¹⁴ Ellis, 20-21; Henry Foster to Ed B. Foster, December 14, 1895, B1, F13, Foster Brothers Collection; E. B. Foster to J. B. Foster, March 3, 1896, B1, F16, *Ibid.*

February 26, 1896, seventeen days before the Osage Tribal Council voted on the proposed Foster oil lease.¹⁵

A case of pneumonia resulted in the unexpected death of Henry Foster. With Henry no longer alive, the entire lease was in question since the draft that sat before the Tribal Council only included Henry's name. Edwin Foster quickly stepped in to assume responsibility of the lease. Edwin relied on the network of support created by his brother prior to his death to accomplish this goal. Attorney George Chandler proved invaluable as he went to the Department of Interior to request Edwin to be the named lease holder as Henry's replacement. Secretary Hoke Smith was absent that day, so Chandler pled his case before the Assistant Secretary of Interior, John M. Reynolds. Reynolds had discussed the matter many times with Henry Foster and agreed the lease should be approved; therefore, he did just that on April 8, 1896, without reviewing the case materials for himself. Reynolds replaced the names of the Foster brothers after the Tribal Council had voted to approve the lease. Instead of voiding the original document and starting fresh with Edwin Foster as the signatory, the lease proceeded through the Office of Indian Affairs as if no major changes had occurred. Reynolds's actions and the subsequent acceptance of the lease by the Office of Indian Affairs showed favoritism toward the wealthy Fosters and disregarded due process and the concerns of the Osage Nation.¹⁶

Henry Foster may have been confident the "Osage matter" would result in a "favorable decision" for his enterprise, but as his brother, Edwin assumed responsibility after his death, reports from Indian Country began to show otherwise. As the date approached for the Tribal Council to vote on the measure, some tribal members protested the blanket oil lease. Julian

¹⁵ Henry Foster Headstone, River Bend Cemetery (Westerly, Washington County, Rhode Island) <https://www.findagrave.com/memorial/129035851/henry-foster>; Ellis, 24.

¹⁶ Ellis, 25; John O'Connor to J. B. Foster, October 12, 1896, B1, F6, Foster Brothers Collection; E. B. Foster to J. B. Foster, March 3, 1896, B1, F16, Ibid.

Trumbly, the Lieutenant Governor, and William Leahy worked together with the support of A. C. Stitch, who had been a former business partner of both Florer and Henry Foster. They did not mind oil development occurring on the reservation, but they expressed their discomfort with the idea of a blanket oil lease that gave Foster and his business associates free reign over their lands. Trumbly proposed the Council allow oil development, but only if the leasing of their lands operated as it did for grazing and agricultural leases. That way, smaller areas of land would be used, and multiple interests could gain access to the Osage Reservation, but it also meant Trumbly, Leahy, and Stitch could lease a ten-mile section of the reservation for their own mineral exploration. They feared that if the Council approved the Foster lease, they and other parties with less capital would be shut out of the potential proceeds from natural resources on their own lands.¹⁷

Even the former Osage Agent, Laban Miles, who lived nearby in Elgin, Kansas, expressed his own concerns about the blanket lease. He argued that if passed, the Foster's lease proposed a drilling period of twenty years which would result in operators "sink[ing] holes and stop them up and then not do anything for several years." Edwin Foster feared the worst, but the Tribal Council voted on March 14, 1896, to pass the measure and allowed the lease to proceed. Some believed the lease contained enough contingencies to stop oil operations if things started to go poorly, while others thought oil development might be a more stable industry than agriculture. Soon after the Council voted to approve the Foster Lease, around one hundred Osage tribal members and their supporters signed a formal protest requesting Secretary Smith to disapprove the Foster Lease. They did not claim fraud or any criminal activity surrounding the negotiations, but they protested because they felt as though the Tribal Council had not listened to the desires

¹⁷ Henry Foster to Ed B. Foster, October 25, 1895, Box 1, File 13, Foster Brothers Collection; E. B. Foster to J. B. Foster, March 3, 1896, B1, F16, Ibid.

of the tribe. They claimed the debates and conversation had been so divisive the resulting vote would not have passed had one member of the council been absent. While these complaints did not raise immediate red flags, the mere existence of the protest resulted in the Office of Indian Affairs authorizing an investigation.¹⁸

From the outset, before the protest reached Washington, D.C., both John Florer and Agent Freeman stated they believed the protest would be dismissed quickly since “the Half-breeds have deceived them [the signatories] and many of them say they did not sign any papers at all but that their names were put on without their consent.” This argument continued in Washington upon the arrival of the signed protest since even the Foster’s attorney stated, “the signatures are all in one hand.” These complaints continued even though the protest came with a notarized explanation from Embry Gibson, the Acting Secretary of the Tribal Council, and Frank Corndropper, Tribal Council member, that no fraud had infiltrated their ranks as they wrote the protest. Additionally, each person fully understood what they signed and either signed the protest personally or “held this pen while some one [sic] else wrote their names.”¹⁹

John Florer notified Edwin Foster as soon as he heard about the protest among the Osages. Edwin told his brother, Barclay, he felt “like a ship on the ocean without a rudder but I won’t give up.” He immediately tried to think of any way he could circumvent the Osages prior to the Department of Interior learning of the protest. Since the lease had been signed by the

¹⁸ E. B. Foster to J. B. Foster, March 3, 1896, B1, F16, Ibid; Jas. A. Simmons to J. B. Foster, March 29, 1896, B1, F7, Henry Vernon Foster Collection, Western History Collections, University of Oklahoma; Citizens of Osage Nation, Protest against the recent lease, under Act of Osage Council, to Henry Foster for oil and gas purposes, April 24, 1896, Box 349, Osage – Oil and Gas Special Cases; Houston Mount, “Petroleum, Planning, and Tribal Property: Oil Field Development on the Osage Reservation, 1896-1950,” in *Main Street Oklahoma: Stories of Twentieth-Century America*, Linda W. Reese and Patricia Loughlin, eds. (Norman: University of Oklahoma Press, 2013), 98; Miner, 166.

¹⁹ E. B. Foster to J. B. Foster, April 7, 1896, B1, F16; Ibid; J. N. Florer to J. B. Foster, March 29, 1896, B1, F17, Ibid; E. B. Foster to J. B. Foster, April 4, 1896, B1, F16, Ibid; Citizens of Osage Nation, Protest against the recent lease, April 24, 1896, Box 349, Osage – Oil and Gas Special Cases.

Tribal Council and Agent Freeman and mailed to the Commissioner of Indian Affairs, Foster planned to push the lease through the hands of the Commissioner and on to the Secretary of Interior before the protest arrived in Washington. Foster's feverishly penned correspondence details his anxiety and every action he took during this brief period since he believed "for every minute of delay is so much more time for their protest or delegation to get here from the Osage Nation, and that might stop everything and give us a fight."²⁰

The signed lease arrived at Commissioner Browning's office on March 25, 1896. Browning promptly signed and forwarded the lease to the head clerk for Secretary Smith. Hoke Smith had announced he would soon take a vacation with his family, which caused Foster additional concern that the Secretary might leave town before signing the document. In the end, Smith's proposed vacation did not affect the lease. Instead, while the Foster lease sat on Smith's desk waiting for his final approval, the head clerk delivered a telegram from Pawhuska. Julian Trumbly and William Leahy wrote, "The Osage people in mass meeting assembled respectfully request that you withhold action until a protest from them reaches you." At that moment, Foster knew his lease might not be successful at all, but his primary regret was that "we could not seem to rush things any faster than we did [emphasis in original]." Foster only cared about his interests and did anything he could to push his agenda through the Department of Interior even though he knew many Osages protested the lease.²¹

Foster and his allies expressed extreme disappointment that the lease was "hung up" with the Secretary of the Interior. Foster expressed his anxiety about the still-pending lease, while his ally Attorney George Chandler was livid. Neither of them thought Senator Gordon was a

²⁰ E. B. Foster to J. B. Foster, March 3, 1896, B1, F16, Foster Brothers Collection; E. B. Foster to J. B. Foster, March 22, 1896, B1, F18, Ibid; E. B. Foster to J. B. Foster, March 26, 1896, B1, F18, Ibid; Hicks, 23.

²¹ E. B. Foster to J. B. Foster, March 25, 1896, B1, F18, Ibid; E. B. Foster to J. B. Foster, March 27, 1896, B1, F18, Ibid.

particularly valuable ally, and as Foster put it, “how he [Chandler] did cuss Gordon.” Florer wrote to the Fosters encouraging them to wait and see what would happen. Florer insisted that his name be kept out of any communications with Washington since “it will not do” for anyone else to know he was “the man at the end of the line looking after matters.” Two of Florer’s former business partners, Joseph L. Morphis and Robert W. Dunlap, also tried to defeat the lease before the Osages even signed it so they could propose their own lease to the tribe. The extensive behind-the-scenes political dealings and exchange of favors during this time led several to comment that the formation and approval of the Foster lease was “the scandal of the time.”²²

Despite these obstacles, Florer utilized his connection with the Osage Agency and his friendship with Agent Freeman to benefit himself through Foster’s deep pockets. They spoke frankly about the oil lease on several occasions, and Florer dutifully reported the key portions back to the Fosters. As Florer recounted their conversations, Freeman believed all along they would encounter a “fight” since “it is such a big thing that so many want to get a slice of it...” In fact, Freeman believed the mixed-blood Osages encouraged the full-bloods to form the protest of the mineral lease as a diversion from the investigation of the fraudulent tribal rolls that had been raised in the face of allotment discussion.²³ It is now known if this was an accurate assessment of the situation, but the fact that the two critical events in Osage history occurred simultaneously lends some credence to the suggestion. Regardless of the reason for the protest, Freeman believed if the Secretary of Interior referred the lease back to the Office of Indian Affairs, the Fosters still had a chance to get the lease approved, especially since Freeman agreed to deny the

²² E. B. Foster to J. B. Foster, March 27, 1896, B1, F18, Ibid; E. B. Foster to J. B. Foster, March 28, 1896, B1, F17, Ibid; E. B. Foster to J. B. Foster, April 7, 1896, B1, F16, Ibid; Ambler, 37; Glasscock, 145.

²³ See Chapter 4: Allotment, Statehood, and Sovereignty for more information about the investigation of the tribal rolls.

protest if it came before him. Needless to say, Foster fully appreciated Florer's efforts on the Osage Reservation.²⁴

The Secretary of Interior immediately referred the protest back to the Office of Indian Affairs so an investigation could take place. Col. Washington G. Houston and a Mr. Duncan traveled to the Osage Reservation to investigate the validity of the protest on April 6, 1896.²⁵ Having previously dismissed the usefulness of Senator Gordon, Foster learned both investigators were his "intimate friends," so he implored Gordon to ask them "to do all they can honorably" to support the lease. However, Gordon's influence did not warrant the trust the Foster's placed upon him. Before Houston and Duncan could even arrive at the Osage Reservation, the Acting Secretary of the Interior signed his approval of the Foster lease on April 8th. It is not clear if Secretary Smith knew about this until his return from his planned vacation, but it is possible Foster's appeals and many conversations with the "head clerk" may have swayed him to sign the lease.²⁶

Two months later, Houston and Duncan returned with the findings of their investigation. In conversations with Agent Freeman, they determined that various parties had an interest in gaining unrestricted access to the Osages mining rights themselves, one of which consisted of the very same former business partners Florer had grown suspicious of – Morphis and Dunlap. While Morphis served one term as a Congressman from Mississippi in the 1870s prior to his arrival among the Osages, Dunlap hailed from a rougher element since he operated a whiskey smuggling enterprise and was known to steal agency hogs. The two men decided to end the

²⁴ J. N. Florer to J. B. Foster, March 29, 1896, B1, F17, Ibid.

²⁵ Unfortunately, Mr. Duncan's first name seems to be lost to history as it was not recorded in any of the correspondence of Edwin Foster nor was it mentioned in any of the Osage Agency reports of the era.

²⁶ Neither the Acting Secretary of the Interior nor Secretary Smith's head clerk are named in any of this correspondence. Even Foster admitted he did not "know what his official title is." E. B. Foster to J. B. Foster, April 4, 1896, B1, F16, Ibid; E. B. Foster to J. B. Foster, April 6, 1896, B1, F16, Ibid; Miner, 167; E. B. Foster to J. B. Foster, March 25, 1896, B1, F18, Foster Brothers Collection.

proposed Foster lease to secure their own lease from the Tribal Council. To this end, Morphis and Dunlap held a secret meeting with a large group of Osages in Cleveland, Oklahoma Territory. Freeman reported that around 500 Osages attended the meeting where they were provided with copious amounts of liquor. Morphis and Dunlap insisted that if the tribe protested the lease, they would propose another lease that would be much more beneficial for them. They believed if the Osages granted them access to \$500 from their trust fund, Morphis's friend and former colleague, Senator Henry W. Blair, would use his influence in Washington to defeat the lease. This deal never came to fruition, but it clearly demonstrates how even people who had worked with the Osages for years tried to manipulate the Tribal Council, so it benefitted themselves rather than the tribe.²⁷

The Osage Tribal Council decided to send a delegation to Washington to discuss both the Foster lease and the protest, as well as the investigation into supposed illegitimate people on the tribal rolls. Foster did not know what to expect from this delegation, but Florer reassured him once more by saying he had great faith in the delegation members. Not quite as confident, Foster continued to make new allies and backup plans just in case things did not end favorably for the lease. He then decided to travel to Pawhuska to meet with Florer and Agent Freeman himself. It is noteworthy none of his plans ever included meeting with any Osage tribal members. Rather, it seems as though Foster used the opportunity of the delegation's presence in Washington as an excuse to slip onto the reservation relatively unnoticed. This first trip to Osage country impressed Edwin Foster as he found it quite beautiful. Florer met him in Grayhorse and allowed him to spend the night, but he refused to accompany him to Pawhuska for the meeting with

²⁷ E. B. Foster to J. B. Foster, April 7, 1896, B1, F16; Ibid; "Morphis, Joseph Lewis (1831-1913)," *Biographical Directory of the United States Congress 1774-Present*, <https://bioguideretro.congress.gov/Home/MemberDetails?memIndex=M000963>; "R. W. Dunlap," *Rushford Spectator* (New York), June 6, 1901; Miner, 167.

Freeman. He believed that he needed to keep “‘very quiet’ in this matter, and concluded he had better not ride around with us over the Reservation.” Florer’s hesitancy in revealing his position lessened after the lease’s approval and especially after his son-in-law John Bird, a banker, became heavily involved in the oil industry. Nevertheless, Foster appreciated Florer’s support since he would not have been able to gain such unprecedented access to the Osage Agency without his involvement. Foster’s trip to Pawhuska allowed him to meet with Freeman, answer many of his questions, and affirm that Freeman himself believed the lease would benefit the Osages greatly.²⁸

As Foster traveled West to the Osage Reservation, the Osage delegation, consisting of former Principal Chiefs Peter Bigheart, and Black Dog, and Secretary Thomas Mosier, left Pawhuska around April 20th and arrived in Washington in time for a meeting with Hoke Smith on April 28th. Bigheart told journalists the purpose of the visit was primarily to discuss the fraudulent tribal rolls as well as funds to educate their children further. No public record or transcript exists of their conversation with Secretary Smith, but it is highly likely they also spoke of the Foster Lease. The delegation returned home soon after their meeting, having expressed their desires and concerns through written communications, in person, and through local newspapers. In the end, the Osage Tribal Council voted to approve the lease, and it was subsequently approved by the Commissioner of Indian Affairs and the Secretary of the Interior for a period of ten years instead of the originally proposed two decades.²⁹ The shortened duration of the lease provided more oversight of oil production since Foster would have to file

²⁸ J. N. Florer to J. B. Foster, March 29, 1896, B1, F17, Ibid; E. B. Foster to J. B. Foster, March 30, 1896, B1, F17, Ibid; E. B. Foster to J. B. Foster, April 20, 1896, B1, F16, Ibid; “Stages Come-Back in the Osage Field,” *National Petroleum News*, 11.11 (March 12, 1919), 14.

²⁹ E. B. Foster to J. B. Foster, April 4, 1896, B1, F16, Ibid; “Rich Red Men Here,” *The Morning Times* (Washington, D.C.), April 29, 1896; “Richest of the Red Men,” *The Evening Times* (Washington, D.C.), April 30, 1896; Chap. 383, February 28, 1891, 26 Stat. L. 794 in Barney, 28; H. L. Wood, “Pawhuska, Okla., America’s Monte Carlo,” *National Petroleum News*, 12.42 (October 20, 1920), 36.

for renewal after seven or eight years rather than twelve to thirteen years later. Tribal members may not have agreed to various particulars of the lease, but the tribe's relational web expanded to include oil and gas ventures which resulted in "a bountiful heritage and phenomenal rise to fame and wealth." This inclusion came in fits and starts but ultimately came to dominate all other forms of industry among the Osages.³⁰

Upon successfully securing the oil and gas lease on the Osage Reservation, Edwin and Barclay Foster immediately formed the Phenix Oil Company, and each filed a bond for \$10,000 for the initial capital. According to the agreed terms, the Phenix Oil Company had to start drilling oil wells within the first six months of the lease. The company's first well was located just south of the Kansas border since Florer had informed them that "the oil excitement in So. Kan. is increasing every day and that new wells are being bored near the [Territory]. Last week three or four big wells with lots of oil were reported and five or six hundred men are at work." They decided to drill two wells close to rail lines to ease the transport of any oil. However, they did not find any signs of oil. Even after drilling an additional 500 feet in both wells, they "were discouraged as to working further West." Instead they turned their attention back east and drilled northwest of Bartlesville. There they found a "large body of oil" consisting of oil sand around twenty-three feet thick on October 28, 1897. The well promptly produced ten to twenty barrels of oil per day. The Fosters were elated to see signs of oil since what had initially promised to be a lucrative investment had started to strain their resources.³¹

³⁰ Osage Tribal Council, *Osage Indian Tribe Centennial Celebration, 1872-1972*, n.p.; "Osage Oil Fields," *Kansas City Daily Journal*, May 24, 1896.

³¹ Many historians and even contemporary government officials spell Phenix in the more common form of "Phoenix." However, according to Foster's company letterhead, the correct spelling of his company is indeed Phenix Oil Company. Foster Bond, March 23, 1896, Box 349, Osage – Oil and Gas Special Cases; E. B. Foster to J.

By late 1897, the Phenix Oil Company had two productive wells “of superior grade” and hoped to produce even more.³² However, a complication came in the form of storage and lack of transportation throughout the reservation. Phenix Oil built a wooden tank that could hold 250 barrels of oil near their first Bartlesville well, but before construction could be completed, around fifty barrels of oil had been wasted.³³ In fact, Agent Freeman visited the site on April 7, 1898, and reported, “The ground in the vicinity appeared to be saturated with oil, and a shallow ditch around the bottom of the tank was filled with it.” When William Pollock assumed the role of Osage Agent in June of that year, he found the condition of the site in a similar state.³⁴ Foster regretted the wasted oil and insisted that the lease did not hold him at fault for “unavoidable waste [emphasis in original]” but hoped to avoid future incidents since he heard a railroad would be built in Bartlesville within the year. As per the lease agreement, he sent the first royalty check to the Osage Nation Treasurer for a grand total of \$15.00 on January 6, 1898. The Osage Nation accepted the royalty payment but not without a closer examination of the activities of the Phenix Oil Company.³⁵

Once the Foster Lease had been approved, the Osages watched and waited for a report from the Fosters on their progress throughout the remainder of 1896 and 1897, but they never received any reports from the Phenix Oil Company. Even when Agent Freeman traveled to Washington to report on the lease's progress, he had very little information to provide to officials.³⁶ Soon after Foster found his first productive oil well, C. F. Nesler, a U. S. Indian

B. Foster, April 7, 1896, B1, F16, Foster Brothers Collection; Edwin B. Foster to National Treasurer Osage Nation, January 6, 1898, Box 349, Osage – Oil and Gas Special Cases; Glasscock, 145; Hicks, 21; Boyd, 78; Osage Tribal Council, *Osage Indian Tribe Centennial Celebration, 1872-1972*, n.p.; Wood, “Pawhuska, Okla. America’s Monte Carlo,” 36.

³² Glasscock, 130.

³³ Hicks, 22.

³⁴ William Pollock to Commissioner of Indian Affairs, June 18, 1898, Box 349, Osage – Oil and Gas Special Cases.

³⁵ Edwin Foster to National Treasurer Osage Nation, January 6, 1898, Box 349, Osage – Oil and Gas Special Cases.

³⁶ Ellis, 168-169.

Inspector, arrived at the Osage Agency to conduct a general report on the conditions of the agency, employees, and the Osages themselves. As Nesler sifted through the mounds of paperwork generated and received by the agency, he found an unassuming oil and gas lease. His description suggests he was completely unfamiliar with the Foster lease and found the terms “entirely too broad in many respects and desire[d] to call attention to it.” Nesler also did something that either no one had thought to do or had willfully ignored – he counted the time that had elapsed since the lease had been signed. The Fosters agreed that if they did not find oil within 18 months after the start of the lease, then the lease became null and void. Depending on whether one started counting with the date the Tribal Council signed or when the Secretary of Interior gave his approval, the Phenix Oil Company’s discovery of oil near Bartlesville occurred fifteen to forty-five days after the deadline. Nesler’s discovery revealed the Foster lease had expired with little fanfare.³⁷

Edwin Foster sent the first royalty check in January 1898, seemingly oblivious to the fact that the Commissioner of Indian Affairs and the Secretary of the Interior had started to investigate the status of the lease. Secretary Bliss requested a meeting with Foster prior to March 15, so they could discuss “why his lease...should not be declared at an end and forfeited.” Foster compiled evidence in the form of three hastily written affidavits from an employee, a foreman, and a citizen and hotel owner where the crew stayed as they dug the well. The crew first unloaded the engine and casing on September twentieth or twenty-first, 1897, started drilling on September twenty-seventh, and they struck oil around October twenty-fifth. Foster argued that since they had started drilling the well before the expiration of the lease, their oil discovery met the necessary conditions. While this argument may have allowed the lease to

³⁷ C. F. Nelsner, Report of the Osage Agency, Case No. 191, December 20, 1897, Box 349, Osage – Oil and Gas Special Case.

continue without question, the fact that the Phenix Oil Company did not complete any more wells during 1898 ultimately sealed their fate. Additionally, Foster had all his oil wells sealed due to limited yield and even more limited options for transportation. As a result of no work being completed, Foster had broken the terms of the lease since he could not allow oil development to discontinue for over six months at a time. Upon learning this news, Secretary Bliss negated the terms of the lease and notified Foster it had been canceled on June 27, 1898. Foster may have been crestfallen, but not for long since Bliss realized he could not legally terminate the lease. Foster had signed the lease directly with the Osage Nation, which meant any “steps for its cancellation should be initiated by the proper authorities of the Nation.” The Osage Tribal Council canceled the lease on August 30, and the Secretary of Interior subsequently approved the cancellation on November 11, 1898.³⁸

The cancellation of Foster’s blanket oil lease incensed Edwin, especially since he claimed he had not received all of the Office of Indian Affairs communications to him or the company.³⁹ The Office of Indian Affairs simply disregarded this claim but requested Foster attend a January 3, 1899 hearing at Agent Pollock’s office in Pawhuska to discuss the lease’s reapproval. Edwin Foster brought his lawyer S. M. Porter and his drilling contractor, A. P. McBride. The Osage Nation sent Black Dog, Peter Bigheart, Julian Trumbly, No-Kah-Wah-Tun-Un, and John Leahy. Foster argued the lease should be reapproved since he had found a large quantity of high-quality

³⁸ Cornelius Bliss to Commissioner to Indian Affairs, February 8, 1898, Box 349, Ibid; Granville Adkins affidavit, June 16, 1898, Box 349, Ibid; Samuel O. Bapst affidavit, June 16, 1898, Box 349, Ibid; Frank Morgan affidavit, June 16, 1898, Box 349, Ibid; Hicks, 24; Glasscock, 130-131; William Pollock to Commissioner of Indian Affairs, June 18, 1898, Box 349, Ibid; Miner, 169; Thomas Ryan to Commissioner of Indian Affairs, July 14, 1898, Box 349, Ibid.

³⁹ Theoretically this claim could be possible. Throughout his negotiations and appeals to the federal government to approve his lease from 1895 to 1896, he moved between multiple D.C. hotels, his homes in Westerly, Rhode Island and Independence, Kansas and traveled at least once to the Osage Reservation. He even remarked once that he had to pick up his mail in multiple locations. E. B. Foster to J. B. Foster, March 25, 1896, B1, F18, Foster Brother Collection.

oil. Even though the Osages had only received a small royalty for the oil found so far, Foster assured them they could expect far more if they allowed him to continue for the entire ten years as had been granted in the original lease. After the hearing, Agent Pollock, the Commissioner of Indian Affairs, and the Secretary of Interior agreed that if Foster had more time, he would be much more successful since he had found “petroleum in paying quantities and will shortly be furnished with reasonable railroad facilities, for marketing of their product.” The debate as to when Foster’s men had found oil continued, whether it was just before the deadline while they constructed the rigging or just after when they completed the well, but the Office of Indian Affairs agreed to renew the lease giving Foster another chance to prove his lease could truly benefit the Osage Nation.⁴⁰

The Phenix Oil Company called their first productive well drilled near Bartlesville Wilkey No. 1. Since the Fosters did not know if their lease would be renewed until the spring of 1899, production of oil and the drilling of new wells stopped until 1900. Once production resumed, the Phenix Oil Company employees unsealed Wilkey No. 1, and as the oil fell on the ground, some nearby Osages came to collect “what they could in buckets” to use as fuel for their homes. Many called the discovery of oil on the Osage Reservation as “fortuitous” and discussed how this one event catapulted the Osage Nation into an envied status. Those in the Department of Interior had vastly different ideas.⁴¹ In 1881, Secretary Carl Schurz stated, “There is nothing more dangerous to an Indian reservation than a rich mine.”⁴² While Schurz left his position as Secretary of Interior long before Foster located oil among the Osages, many continued to hold

⁴⁰ A. C. Tonner to Secretary of Interior, May 10, 1899, Box 349, Osage – Oil and Gas Special Case; Commissioner of Indian Affairs to Secretary of Interior, May 23, 1899, Box 349, Ibid; Acting Secretary of Interior to Commissioner of Indian Affairs, May 27, 1899, Box 349, Ibid; Miner, 170.

⁴¹ McReynolds, 187; G. E. E. Lindquist, *The Red Man in the United States: An Intimate Study of the Social, Economic, and Religious Life of the American Indian* (New York: George H. Doran Company, 1923), 173.

⁴² Ambler, 32.

the same sentiments. When George L. Miller, owner of the expansive Miller Brothers 101 ranch in Ponca City, Oklahoma Territory just west of the Osage border, struck oil on his land, he could not have been more excited. On the other hand, one of his employees, a Ponca tribal member named Running-After-Arrow, saw the oil well and “looked upon it as an evil omen, as a sign of coming destruction.”⁴³ Ranchers in the area expressed serious concerns since they did not know how the oil industry would ultimately affect their enterprises. Lon R. Stansbery wrote of his time working as a “salt boy” for the 3-D ranch in the southwest corner of the Osage Reservation. This ranch operated on 60,000 acres with 15,000 head of cattle until the 1920s but eventually ceased its operations due to the oil fields that had been extensively developed in the area. Stansbery remembered the ranch full of “wonderful prairies, its magnificent hills, and the creeks of cool sparkling water filled with perch, crappie and black bass; but today [in 1928] its plains are dotted with oil derricks, the grass is covered with oil, the beautiful streams are filled with salt water and fish have long been strangled out. The black walnuts, the beautiful elms, redbuds, and cottonwoods are all dead, and the great bluffs and rocks are now black with oil.”⁴⁴ But the start of oil production did not look anything as dire as Stansbery would later witness during the height of the oil boom, but within two decades, the landscape changed dramatically.

When the Fosters began their oil company, the most significant limitation for profitable oil development continued to be the lack of easily accessible transportation. The reservation had roads, initially constructed by the Osages themselves as they freighted goods to the agency and traders from the railway in Elgin, Kansas, but those roads consisted of narrow dirt laned wagon trails. The heavy equipment needed in the oil fields quickly eroded the roadways, and some simply became impassable after heavy rainfalls. To move the necessary construction and drilling

⁴³ Collings, 104.

⁴⁴ Stansbery, 1-2; Glasscock, 125-126.

materials, crews used large draft horses. T. W. Price remembered seeing “eight large Percheron horses decked out in the most elaborate harness with tassels on their bridles pulling one steam boiler” past his house near Hominy. The presence of these animals created a “demand for hay, oats, and corn [that] was insatiable.”⁴⁵ Due to the poor condition of the roads and the expense required to keep large teams of draft horses, some crews used waterways to move equipment. This approach worked on the southern edge of Osage land due to the presence of the Arkansas River, but the smaller rivers and creeks throughout the reservation would not have been wide or deep enough to transport large machinery and equipment.⁴⁶ Road conditions started to improve in the 1910s after the Osage County authorities required every citizen residing within the county to contribute to road repairs. Much like the original community road construction project Osage leaders instituted in the 1870s, people donated their time and labor to road improvement. Those who chose not to participate could pay “\$4.00 in lieu thereof.” Due to the Osages’ wealth, it is unlikely many Osages worked on any of the road construction crews. They created the first roads, so many chose to use their wealth to exempt them from the arduous work.⁴⁷

Agency employees yearned for a railroad that could easily connect Pawhuska and the agency to the Office of Indian Affairs in Washington, and general store owners desperately wanted their supplies shipped directly to them. Railroads did not come to the Osage Nation until the early twentieth century. Construction on rail lines started as early as 1892 when the Missouri, Kansas, and Texas Railroad constructed the first rail station in the Osage Nation in the boomtown of Nelagony in 1904. However, Pawhuska, the primary town, did not receive rail

⁴⁵ T. W. Price and Naomi Custer Maze quoted in Smith, 201.

⁴⁶ Workers of the Writer’s Program of the Work Projects Administration, 292.

⁴⁷ J. George Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 26, 1918,” RG 75, Annual Narrative and Statistical Reports from Field Jurisdictions of the Bureau of Indian Affairs, 1907-1938: Osage, 1910-23, NARA-DC [hereafter referred to as the Annual Narrative and Statistical Reports].

service until 1906 from the Midland Valley Railroad Company. To help alleviate transportation issues, oil companies constructed pipelines to transport the oil to rail lines in Kansas so it could then be shipped to refineries. The first pipelines coming from the Osage oil field were completed in the early 1900s, but these pipelines provided little relief when large wells were discovered. When the American Pipe Line Company struck oil on November 6, 1918, they hastily laid three to four-inch pipes to storage facilities in Butler County, Kansas, but not before dozens of barrels of oil had been lost. Soon after, it became apparent that the Osage oil fields needed their own refineries and additional pipelines to ensure oil would not continue to be wasted. By 1922, oil production had reached such heights, the Osage Reservation included twenty-five gasoline plants while seven pipelines emanated from the Osages' lands.⁴⁸

Another complicating factor for the Fosters and their oil company came from the price of oil. From 1874 to the 1940s, the average price for a barrel of oil "rarely rose above a dollar." During the early period of developing Osage oil, the Fosters struggled since their initial wells produced oil "in paying quantities," but none of them could be considered "gushers" with the stereotypical spout of oil raining down on workers.⁴⁹ By 1900, the Phenix Oil Company worked a total of four producing oil wells, leading to a net yield of 6,472 barrels of oil. These less than desirable returns placed the company in a precarious position. In fact, they were losing so much money that the Fosters' oil ventures sat on the edge of bankruptcy. The Foster's blanket lease allowed them to sublease sections which streamlined oversight performed by the Tribal Council

⁴⁸ Vaux, 74; White, *Structure and Oil and Gas Resources of the Osage Reservation*, xi; Mitscher, "Report of Osage Agency, Pawhuska, Oklahoma, August 21, 1902," 294; Frantz, "Report of Osage Agency, Pawhuska, Oklahoma, August 25, 1904," 298; Millard, "Report of Agency for Osage Agency, Pawhuska, Oklahoma, September 1, 1906," 316; Smith, *Big Bluestem*, 186-187; "Some Leading Actors in Osage Sale Prepare to Develop Big Osage Purchase," 27; Wright, "Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 14, 1919," n.p.; Wright, "Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, July 29, 1921," n.p.; Wright, "Annual Report of the Osage Indian Agency," June 30, 1922," n.d.

⁴⁹ Ambler, 33.

and the local agency, but few people seemed interested in risking their own capital in an area many still viewed as unproven ground. After two proposed subleases fell through, the Phenix Oil Company had amassed \$15,000 in debt by December 1899. Fortunately for the Fosters and the Osages' hopes for sizable royalties, a more profitable 1900 marked a transition for the Foster's nearly failing oil venture.⁵⁰

The Osage Agent reported the Phenix Oil Company had done very little “other than that absolutely necessary to prevent the cancellation of the contract.”⁵¹ In 1900 Edwin Foster finally succeeded in subleasing a sixty square mile tract located near Bartlesville to a Rhode Island acquaintance, Samuel C. Sheffield. Sheffield and his business partner, J. A. McKinley, took a risky venture by assuming the Phenix Oil Company's \$15,000 debt and agreed to pay Foster fifteen percent of the profits, ten of which went directly to the Osage Nation. Soon after Sheffield and McKinley formed their own business, the Osage Oil Company drilled several wells that immediately produced high quantities of oil. By May 1900, Osage Oil shipped their first 300 barrels of oil. As construction of the long-awaited rail station completed in Bartlesville around the same time, the Osage Oil Company used rail shipping to their advantage, shipping a total of 2,732 barrels of oil by the end of July. This success enlivened the Fosters, but unfortunately, too much damage had been done to the Phenix Oil Company. By the end of 1901, the Fosters formed another corporation, the Indian Territory Illuminating Oil Company (ITIO), as the Phenix Oil Company declared bankruptcy. Edwin brought his nephew Henry Vernon Foster (known as Vernon) into the oil business and tasked him with cultivating oil subleases. By rebranding and bringing Vernon Foster into the operation, the ITIO began to see appreciable gains. Even Osage Agent Frank Frantz stated the ITIO completed “much more activity in the

⁵⁰ Hicks, 24; Ellis, 33-37.

⁵¹ Frantz, “Report of Osage Agency, Pawhuska, Oklahoma, August 25, 1904,” 297-298.

way of prospecting and developing” the oil fields on the Osage reservation than the Phenix Oil Company had achieved. By 1903, M. F. Stillwell, the manager of the ITIO, reported the company had drilled thirty-three wells and were actively producing oil from twenty-one of those.⁵²

Edwin, Barclay, and Vernon hoped to start making money from the blanket lease under the new corporation. Unfortunately, Edwin and Barclay both passed away in December 1901. Vernon Foster then assumed the role of leading a new company in a business his uncles had not been able to make profitable. First, Vernon decided to stop investing their own capital into drilling oil wells. They simply did not have enough money to support any additional construction and drilling. Instead, he planned to increase profits dramatically by simply subleasing the lands. This forced interested parties to cultivate their own capital while the ITIO reaped a portion of the rewards after paying ten percent royalties to the Osage Nation. Vernon authorized 1,000 acres to be leased at a time, selling between one and three dollars an acre depending on how likely they believed oil could be found in that particular area. Formerly hesitant investors and potential sublessees soon agreed to work with the ITIO since Vernon had separated himself from the previous failing business. In one year, the ITIO established 226 subleases who in turn drilled 226 oil and gas wells. Three-quarters of the wells dug produced oil, leading to a total of 86,416.95 barrels produced in one year, a far cry from the Osages first fifteen-dollar royalty check.⁵³

⁵² Ibid.; Ellis, 39-40, 51; Miner, 171; Hicks, 24-25; Osage Tribal Council, *Osage Indian Tribe Centennial Celebration*, n.p.

⁵³ Miner, 172; Ellis, 52; Wood, “Pawhuska, Okla., America’s Monte Carlo,” 36; Frantz, “Report of Osage Agency, Pawhuska, Oklahoma, August 25, 1904,” 298; Hicks, 25-26; Millard, “Report of Agent for Osage Agency, Pawhuska, Oklahoma, September 1, 1906,” 314.

According to the blanket lease, the ITIO acted as the responsible party collecting all profits from oil operators within the Osage Reservation. Foster's idea of issuing subleases placed him and his company in a position to gain more money from the rental fees and a percentage of the produced goods which resulted in more profits than they could ever have hoped for as the sole oil producer among the Osages. Companies and developers who subleased portions of the Osage Reservation from the ITIO paid a yearly rental fee but also paid around sixteen percent of the profits they earned from the natural resources. In turn, Foster gave the Osage Nation ten percent of the royalties, leaving the ITIO with a profit of six percent for each lessee. The royalties alone earned the company anywhere between fifty to one hundred thousand dollars per year. While Vernon Foster saw this as a much-needed accomplishment for the ITIO and his family, the Osages did not approve of these dealings. They quickly recognized their Nation could benefit directly from subleasing their own lands, as they had successfully been doing for decades, rather than allowing an intermediary to conduct this business for them. Agent Freeman argued that allowing the Fosters to oversee subleases would greatly aid the Osage Agency since they had been inundated with work, but the Tribal Council did not care about the workload of the Osage Agency employees. They wanted to do what was best for their people, and in their eyes, allowing six to seven percent of profits to go directly into the hands of a white man's company did not accomplish that goal.⁵⁴

Those looking at the Osage's blanket oil lease concluded that the ITIO operated a "profitable exploitation of 'The Osage.'"⁵⁵ President Theodore Roosevelt believed the subleasing conducted by the ITIO constituted "scandalous" behavior since they operated as a

⁵⁴ Miner, 174; Haskell Institute Club, n.p.; Hicks, 25.

⁵⁵ Baird, 72.

monopoly.⁵⁶ The blanket lease prevented other developers from dealing directly with the Osages, and those who wanted to operate subleases had to agree to Vernon Foster's demands for rent and royalty payments. Additionally, tribal members reported extreme waste of resources on their lands, whether in the form of spilled oil, using dry creek beds as temporary holding facilities for oil, or cutting timber to construct oil derricks. As a result of the Tribal Council's dissatisfaction with Foster's handling of the oil lease, they began to debate whether they should agree to renew the lease. The Tribal Nation looked to the 1906 expiration of the blanket lease as a chance to renegotiate for a better deal, but Foster and the ITIO anxiously tried to prove that without their presence, the Osages would not be able to cultivate the same wealth they now experienced.⁵⁷

While the Osages looked for a new leasing opportunity that allowed them to benefit more from oil royalties, those outside the reservation simply could not understand that the Osage Nation effectively controlled their leasing economy. In fact, the *Bartlesville Magnet* stated the Osage Tribe was "merely a voiceless, passive object oblivious" to the oil leasing industry.⁵⁸ Clearly, non-Osages did not desire to learn about the tribe's extensive experience with leasing grazing rights and farm lands or that the tribe continued to remain active in oil leasing discussions. The Foster oil lease operated within a very different set of parameters. The Osage Nation carefully observed and concluded that the blanket oil lease as it had been originally written did not benefit the tribe as much as it could with some alterations. Many Osages believed and asserted from the outset oil leases should be conducted in a similar manner to their farming and grazing leases, allowing individual oil operators to drill and produce oil without the

⁵⁶ Miner, 174-175.

⁵⁷ Hicks, 15; Lucas, 11; Wood, "Pawhuska, Okla., America's Monte Carlo," 36.

⁵⁸ Miner, 173, 181.

ITIO acting as middlemen making money at the expense of the Osages. When Agent Frank Frantz heard the desires of the Tribal Council, he informed Foster and the executives at ITIO that without action and potentially reform, Foster could no longer believe the lease would be renewed upon its expiration in 1906. In fact, the Senate, at the behest of President Theodore Roosevelt, who grew increasingly concerned about the ITIO and the Fosters operating an oil monopoly among the Osages, reduced the available acreage from 1,500,000 to 680,000. The reduction of acreage allowed the Osages to pursue leases other than that of Vernon Foster and the ITIO.⁵⁹

Upon learning of the reduction of the available acreage to develop, Foster instructed James Glenn, the Vice President of the ITIO, to approach the Tribal Council to discuss a new lease for the remainder of the reservation. Glenn omitted both the names of Foster and the ITIO from the conversation and approached the Tribal Council as if the renewal was, in fact, a novel lease. Glenn offered Bacon Rind, a Tribal Councilman and later Principal Chief, \$500 during the meeting and promised an additional \$1,000 bribe if what he called “the Glenn lease” was supported. Bacon Rind accepted the bribe. It appears as though Frantz had understood the scheme in advance since he had been away on business when the meeting occurred so he could maintain plausible deniability.⁶⁰ Additionally, Congress introduced H.R. 17478, which masqueraded as an allotment bill under the title of “Division of the Lands and Moneys of the

⁵⁹ Roosevelt, known as the famous “trust-buster,” disapproved of the Foster’s “blanket oil lease.” It is likely Roosevelt became interested in the Osages as he targeted Standard Oil as a monopoly in the early 1890s. Since rumors Standard Oil tried to secure their own blanket oil lease in 1896 circulated around Washington, it is entirely possible became involved with Osage oil leases to ensure no hint of corruption or monopolies could occur in the wake of the Sherman Anti-Trust Act.

“Assails the Oil Lease,” *The Washington Post*, February 22, 1905; Mount, 99; Wood, “Pawhuska, Okla., America’s Monte Carlo,” 36.

⁶⁰ Although Frantz maintained he had been out of town throughout the Council’s actions, when the papers reported his defense many Pawhuska residents expressed surprise since they “remembered that while he was absent one or two days of the week when the council was in session, he appeared on the floor of the council at least once and made a speech urging the council to settle the matter one way or another at that time.” “Sensation Expected,” *The Daily Ardmoreite*, June 10, 1906. “Glenn Leases Turned Down,” *The Guthrie Daily Leader*, May 26, 1906.

Osage Tribe of Indians.” In actuality, the hearings revolved around the renewal of the Foster oil lease. Glenn needed allies in Washington and in the Tribal Council so the oil lease could be uncoupled from the issue of allotment. He argued that an examination of a separate oil lease would benefit the tribe much like Foster’s leases had.⁶¹

During Glenn’s explanation of the negative effects of H.R. 17478 and his proposal for the lease, “an alarm of fire was raised,” ending the meeting abruptly. This proved fortuitous for another interested party who wished to speak to the Tribal Council and offer their own bid for a lease to the reservation. Frank Bapst, simply referred to as the “Jew” or a New York interest by newspapers, saw an opportunity if he could gain access to the Osages’ oil fields. Bapst had seen the copious barrels of crude that could be produced in the area, so he confidently offered a larger royalty to the tribe if they agreed to endorse his company, the Barney Oil Company. While Bapst made a compelling argument to the Tribal Council, Glenn established a fund consisting of \$47,000 exclusively to pay out bribes to those who could help renew the Foster lease and endorse his own lease of the reservation. A later investigation found that Glenn placed \$10,000 in the First National Bank in Pawhuska, but “it took only about \$2,500 to ‘fix’ matters up” among the Tribal Council. Due to the overt bribes, the Tribal Council announced they wanted to accept Glenn’s proposed lease instead of the higher royalties offered by Bapst.⁶² Newspapermen reported their supposed reason – the Barney Oil Company “was ‘predominated over by a Jew’ and they did not ‘like that class of people.’” If accurate, this sentiment was likely a strategic move made by the Tribal Council rather than deeply held ethnocentric beliefs against Judaism. The Tribal Council knew they could not admit they selected the Glenn proposed lease because of

⁶¹ Committee on Indian Affairs of the House of Representatives, *Division of the Lands and Moneys of the Osage Tribe of Indians: Hearings on H.R. 1478* (Washington: GPO, 1905); Miner, 181, 177.

⁶² “Scandal Rife in Osage Nation,” *The Guthrie Daily Leader*, May 19, 1906.

bribery; however, the Osage Nation understood America's contemporary bias against Jewish immigrants. Therefore, Tribal Council members adopted the rhetoric of white Americans in order to exert influence and control over who could lease their lands.⁶³

Glenn's efforts also resulted in the Tribal Council sending a delegation led by James Bigheart to Washington to discuss the matter with the Secretary of the Interior. In a moment of confusion and to fulfill the understood duties of the bribe he accepted, Agent Frantz led a separate delegation to Washington. Both delegations requested H.R. 17478 be withdrawn from consideration and separate bills issued for allotment and the renewal of oil leases. Secretary Ethan Hitchcock thought the hearing "smacked of corruption" and removed it from further debate, but he also expressed suspicion towards Glenn and Agent Frantz. Hitchcock authorized William T. Burns and James McLaughlin to investigate the matter as he knew "oil grafters" were rampant throughout Indian Territory.⁶⁴ They discovered Frantz tried to orchestrate the selection of the leases that would best benefit himself; however, Frantz had Theodore Roosevelt as a powerful ally and remained untouchable from prosecution. Frantz had volunteered with the Rough Riders during the Spanish-American War in 1898 and became fast friends with Roosevelt. When President Roosevelt heard of the investigation and the accusations that Frantz frequented a brothel, appeared drunk in public, and had accepted bribes in the past, he rushed to use his position as President of the United States to aid his friend.⁶⁵ By the time McLaughlin and Burns's report had been filed, Roosevelt had completely removed Frantz from the situation and appointed him as the Governor of Oklahoma Territory. Frantz maintained that "he did not make any recommendation on these leases and was away from the reservation when the council made

⁶³ "Sensation Expected," *The Daily Ardmoreite*, June 10, 1906.

⁶⁴ "Scandal Rife in Osage Nation," *The Guthrie Daily Leader*, May 19, 1906.

⁶⁵ Miner, 177, 180, 182; "Sensation Expected," *The Daily Ardmoreite*, June 10, 1906.

the leases.” Ultimately, the Glenn lease did not receive approval, and Foster narrowly escaped the agency without prosecution. The Tribal Council and the Osage Nation faced a new round of increased scrutiny by the Office of Indian Affairs.⁶⁶

Throughout the lease negotiations, bribes, and closed-door meetings, the Osage Tribal Council prepared for an election. Council member Bacon Rind started campaigning for the progressive ticket to be elected Principal Chief in the spring of 1906. Since Bacon Rind oversaw the council as they considered the proposed Glenn and Bapst leases, he faced intense scrutiny from Inspector McLaughlin during the subsequent investigation. At one hearing, McLaughlin inquired if he had received bribes in exchange for supporting the Glenn lease, but Bacon Rind refused to confirm or deny his involvement in the affair.⁶⁷ Even without an admission of guilt from Bacon Rind, McLaughlin found sufficient evidence he had indeed accepted \$250 for his support of the Glenn leases. After McLaughlin’s report went to Secretary Hitchcock, the Office of Indian Affairs planned to prosecute anyone who paid or accepted bribes. To avoid increased attention to himself and potentially jeopardize his political party, Bacon Rind withdrew from the election in 1906. Many feared impending legal action, but others believed “there is no law to govern this particular case.” Once the investigation concluded, no one involved or even tangentially connected to the Glenn Lease faced prosecution. One thing that became readily apparent was that the Osages oil development had transformed rapidly, and individuals around

⁶⁶ “Glenn Leases Turned Down,” *The Guthrie Daily Leader*, May 26, 1906; Anderson, 138.

⁶⁷ One report stated that Bacon Rind responded to the majority of the questions lobbed at him with a simple “Ugh!” However, this report likely reflects the bias towards American Indians in general, but the bastardization of his name Wah-She-Hah, originally meaning Star-That-Travels, into Bacon Rind likely did not further support his credibility or revered status to the average Americans. One newspaper article reported that at an interview he “was gloriously drunk on lemon extract.” “Bacon Rind Named,” *The Guthrie Daily Leader*, May 24, 1906; “Would See Him Wednesday,” *The Guthrie Daily Leader*, June 5, 1906; Jon D. May, “Bacon Rind,” *The Encyclopedia of Oklahoma History and Culture*, <https://www.okhistory.org/publications/enc/entry.php?entry=BA003>; “Land of the Osage,” *The Guthrie Daily Leader*, December 26, 1903.

the country paid attention and tried to determine how they could access the oil wells located on Native ground.⁶⁸

Vernon Foster was keenly aware that the renewal of his lease in 1906 could result in a “bitter fight.”⁶⁹ He narrowly avoided a second bankruptcy after the Osages and Office of Indian Affairs initially canceled his lease on the grounds of what he considered a technicality, and Foster did not want to be placed in a similar situation again. This renewal proved different since Foster found support among the individual oil developers who subleased from the ITIO. They had invested the most capital and knew that their efforts would go to waste if the lease did not get renewed. Even though the available acreage for the Foster lease had been reduced to 680,000 acres, the new boundaries included the most oil-productive acres within the eastern portion of the Osage lands. The Osage Nation requested Congress grant a larger royalty payment than the one-tenth they had previously agreed. In fact, at the hearings for the allotment bill H.R. 17478, John F. Palmer served as the primary witness on behalf of the Osage Tribal Council. To protect the Osage Nation’s interests, he argued that no leases should be approved if the lessee offered less than one-sixth of the royalties. The Commissioner of Indian Affairs did not agree to those terms but did increase the royalties to one-eighth of all oil well proceeds and \$100 per year for every gas well. The Tribal Council approved this measure which led to the approval of the Foster lease on March 3, 1905, for an additional ten years. The increase in oil royalties paid to the tribe did not dissuade additional sublessees from coming to the area. By the end of 1906, 783 wells had been

⁶⁸ “Bacon Rind Has Withdrawn,” *Tulsa Daily World*, June 2, 1906; “Scandal Rife in Osage Nation,” *The Guthrie Daily Leader*, May 19, 1906.

⁶⁹ Wood, “Pawhuska, Okla., America’s Monte Carlo,” 36.

drilled within the Osage Nation, with 544 producing oil and forty-one producing natural gas. The yield from 1906 proved to be the largest yet, with 4,174,164 barrels of oil being produced.⁷⁰

Despite the renewal of the Foster lease, the Osage Nation thought Vernon Foster and the ITIO had too much unfettered access to tribal resources even with the now reduced acreage. The Office of Indian Affairs oversaw subleasing agreements, the production rate of oil and gas, and the subsequent royalty payments made to the tribe. The Osage Agency frequently remarked that they simply did not have enough employees to complete the required work within the reservation.⁷¹ The Tribal Council took action to protect their people from fraudulent leases and developers who tried to scam tribal members and surveil areas outside the boundary for lessees. In 1907, the Tribal Council hired their own independent field inspector to investigate leases that seemed suspect and to make a report to the Osage Agency directly. This inspector provided a clear view of what oil operators did on the reservation and enabled the Tribal Council to act on independently garnered information rather than relying on the Osage Agency or the ITIO. The tribal field inspector also assisted in aiding individuals as they questioned whether an oil well could be drilled on their property.⁷² Osages had accepted the Fosters and the ITIO within their external relational web, but acceptance into their sphere of influence did not mean they could act however they desired. Tribal leaders maintained control over their external relationships so they could ensure their people benefited from the arrangement.

⁷⁰ Committee on Indian Affairs, *Division of the Lands and Moneys of the Osage Tribe of Indians*, 8-9; Osage Tribal Council, *Osage Indian Tribe Centennial Celebration, 1872-1972*, n.p.; Robert G. Valentine, "Report of the Commissioner of Indian Affairs, Washington, September 15, 1909," in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1909), 51; Chap. 1479, March 3, 1905, 33 Stat. L. 1048 in Barney, 34; Cato Sells, "Report of the Commissioner of Indian Affairs, Washington, September 1, 1915," in the *Annual Reports of the Office of Indian Affairs* (Washington, D.C.: GPO, 1915), 32; Hicks, 26.

⁷¹ Ambler, 50.

⁷² "Resolution of Tribal Council, n.d." Box 349, Box No. 349, Osage – Oil and Gas Special Cases.

During the tenure of the first Foster Lease, the Phenix Oil Company wanted to drill on fenced and “cultivated inclosures [sic],” but had been refused entry since the Tribal Council considered that “detrimental” interference to the tribal members' crops. Upon the renewal of the Foster Lease, Frank L. Campbell, the Assistant Attorney-General, determined that a fenced area containing only a small area of cultivated lands did not prohibit drilling, but drilling a well in the middle of a garden or a cash crop bound for sale would not be allowed. The Osage’s Field Inspector informed tribal members of the new determination and settled any disputes before they arose to the level of needing attention of the Osage Agent. This position allowed the Osage Nation to govern more of their tribal affairs than they had been able to exert during the first blanket oil lease.⁷³

The Osage Field Inspector helped clarify and mediate many issues, but a solitary position could not protect the Osage Nation from inappropriate land usage across the entire reservation. Tribal members grew increasingly concerned about the effects of oil leasing across their lands. Some individuals found their claims had been severely damaged from oil production and practically unusable. Those who kept livestock or held grazing leases found the pollution of their water sources “exceedingly dangerous to stock.” Those with farms saw the land being destroyed from oil spills, gushing wells, and the use of salt water, dynamite, and sand to extinguish well fires. Osage reporters believed these individuals lost “more each year on account of the loss of use and rents of the land than they are receiving as their pro rata share of the royalties.” One reporter for *The Osage Journal* estimated farmers would need to wait ten years postproduction in the oil wells near their fields so the ground could recover and allow them to recoup their losses.⁷⁴ In response to the seemingly unchecked actions of oil developers, some

⁷³ Millard, “Report of Agent for Osage Agency, Pawhuska, Oklahoma, September 1, 1906,” 314-15.

⁷⁴ “Creates Much Discussion,” *The Osage Journal*, June 15, 1911.

tribal members created the Osage Protective Association organization in 1911. These individuals focused their attention on protecting property rights by “resisting the further leasing of the mineral interest of the Osage Indians.” When the organization first started, they issued some bold referendums, such as splitting the oil leases into individually held portions, to demonstrate tribal members “can attend to their own business better than anyone else.” While these recommendations were not acted upon, the Osage Protective Association demanded attention and “consulted in matters” concerning oil leasing and the wealth that would likely be included with additional leases. In short, this organization signaled neither they nor the Tribal Council would continue to defer “meek submission to departmental action.”⁷⁵

The Osage Protective Association created a proposal that would not just halt blanket oil leases, particularly those under the control of Foster or the ITIO, but would also allow for individual leases to sell at auction to the highest bidder, maintain the royalty at one-eighth of the production value, require those wanting to drill wells in a “cultivated enclosure” to occur only with the “written consent” of the owner or their guardian. Oil developers had to pay an additional bonus that would be “[sufficient] to fully compensate” the tribe for any damages that may occur.⁷⁶ The Tribal Council adopted the proposal, which included an endorsement for mineral leases “shall be segregated and divided among the members of the tribe,” and sent a copy of the proposal to Congress and the Secretary of the Interior. The Osage Nation looked at the current situation and sought methods to mitigate further injuries and damages to individual claims, crops, and property since this strengthened the internal relational web between tribal

⁷⁵ “To Protect Mineral Rights,” *The Osage Journal*, January 5, 1911.

⁷⁶ “The Mineral Rights,” *The Osage Journal*, April 27, 1911.

members. They hoped this proposal would provide another much-needed layer of protection from the oil developers who did not care about the land or the Osage people.⁷⁷

The Foster Lease's renewal consisted of around four percent of the available acreage among the Osages. With so much additional land, simply referred to as the "unleased portion," the Tribal Council decided to offer separate oil and gas leases to individuals.⁷⁸ This allowed the Nation to explore mineral development through smaller leases for what they hoped would prove more favorable returns. The Osage Agency approved the lease of an additional 24,561 acres for mining purposes but left the western portion of the reservation free from mining so profitable grazing leases could continue unimpeded. Additionally, the Osage Agency selected lands that would garner the interest of developers, which meant the lands had to display some evidence that oil was present or the acreage was located near a known oil pool. The ITIO had discovered the Boston Pool, the largest oil pool discovered on Osage lands to this point, so the acreage offered for leasing naturally sat adjacent to this area. The location drew the attention of interested parties, but the Secretary of Interior wanted to ensure the Osages benefitted from the venture by eliciting the "highest bidder" by using sealed bids. Those hopeful of gaining a foothold in the oil industry or within the Osage reservation jumped at the opportunity since they had been barred from the area in favor of the Foster family. To further entice bidders, these leases contained rights to drill for both oil and natural gas.⁷⁹

The first sealed bid auction began on April 11, 1912, and resulted in multiple high-priced bids for access to the Osage Nation's oil resources. The enthusiastic response of oil developers

⁷⁷ "Creates Much Discussion," *The Osage Journal*, June 15, 1911.

⁷⁸ Cato Sells, "Annual Report of the Commissioner of Indian Affairs, Washington, D.C., December 8, 1913," in the *Annual Reports of the Commissioner of Indian Affairs* (Washington: GPO, 1913), 29.

⁷⁹ Cato Sells, "Report of the Commissioner of Indian Affairs, Washington, September 21, 1914," in the *Annual Reports of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1914), 33; Cracraft, "The Fabulous Osage, Part I," 11-12.

seemed to be a good sign, and for many, this auction proved that moving away from blanket leases would ultimately benefit the tribe. However, the Osage Nation and the Secretary of Interior had drastically different views on how to accomplish this goal. Just before the first sealed bid auction, the Uncle Sam Oil Company approached the Tribal Council and expressed interest in leasing 200,000 acres for their operations. The Council desired to simplify the leasing process and passed a resolution to grant four leases for 200,000 acres each.⁸⁰ Having ratified the proposal, council members forwarded the document to the Secretary of Interior for approval. Secretary Fisher denied the measure “on the ground that [the stipulations] were not in accord with the best interests of the Indians.” Not to be deterred, the Osage Protective Association, along with the Uncle Sam Oil Company, pressured the Tribal Council to do something about the Secretary’s actions, but the sealed bid auction had already occurred. The Tribal Council decided to ignore the rulings of the Office of Indian Affairs and the Secretary of Interior and instead “passed a resolution rejecting all the bids” from the auction. Upon hearing this, many tribal members spoke out against this plan since they had seen how lucrative the auction had been. They wondered why Council members would pass up significant profits only to agree to an additional four blanket leases. Federal employees also expressed concern since this alteration did not seem financially beneficial for the tribe. At the request of Secretary Fisher, another investigation began to determine the reasoning for the Tribal Council’s actions.⁸¹

The ensuing investigation quickly revealed that members of the Tribal Council accepted bribes and actively worked with the Uncle Sam Oil Company, allowing their lease to include 480,000 acres instead of the original 200,000 acres. Investigators identified severe corruption among the Tribal Council members as they had all accepted bribes. Since many of these

⁸⁰ Osage Tribal Council, *Osage Indians Semi-Centennial Celebration, 1907-1957*, n.p.

⁸¹ Sells, “Annual Report of the Commissioner of Indian Affairs, Washington, D.C., December 8, 1913,” 29.

individuals had also been identified accepting bribes during the renewal of the Foster lease in 1906, Secretary Fisher used the executive power allowed by the Osage Allotment Act to depose the Tribal Council and the newly elected Chief Bacon Rind. Competing interests and rampant corruption had infiltrated tribal leadership leading Fisher to utilize a clause within the Allotment Act to stop outsiders from influencing tribal members. Considering the Tribal Council had not faced the same level of corruption throughout their history, it is possible that the Office of Indian Affairs dissolution of the Osage government and subsequent appointment of tribal leaders disrupted the balance of power and allowed outsiders to infiltrate the Nation. Osages regained control of their government and exercised their voting rights during the beginning of the oil boom period, just as many whites flooded to the area seeking their own fortunes. These newcomers, particularly wealthy oil developers, tried to exert their influence among council members. Secretary Fisher used his position to prevent corruption from further gaining a foothold in the Osage Nation. This allowed Osages to elect new tribal leaders at one time, thereby ensuring any government-appointed councilmembers no longer held positions of power.⁸²

Tribal members elected new Tribal Council members and Fred Lookout as the new Principal Chief, although many still recognized Bacon Rind for the remainder of his two-year term. One unnamed councilman filed a suit with the Supreme Court to regain his position on the Tribal Council, but the court held the decision made by Secretary Fisher. The Office of Indian Affairs did not have any involvement with the election or the results, but it seems as though they approved of tribal members' choices since they made a point of stating Peter C. Bigheart and Ne-

⁸² Wilson, 49; James A. Carroll, "Annual Report of the Osage Indian School, August 25, 1913," n.p., RG 75, Annual Narrative and Statistical Reports From Field Jurisdictions of the Bureau of Indian Affairs, 1907-1938: Osage, 1910-23, NARA-DC.

Kah-Wah-She-Tun-Kah, both former chiefs, had been elected to the Council. Along with Chief Lookout, these men were respected among the Osages for their fairness and leadership abilities.⁸³

Assistant Commissioner F. H. Abbott stated the “conspirators” in the Uncle Sam Leasing scandal “were caught and downed in their tracks; and because of their defeat hundreds of thousands of dollars annually...will now find way to the pockets of the rightful owners, the Indians.”⁸⁴ The so-called “conspirators” included many key figures in Pawhuska and within the Osage Nation. Those of the Osage Nation who faced indictments and intense questioning during Congressional hearings consisted of Bacon Rind, “deposed chief of the Osages,” attorneys J. T. Leahy, W. H. Leahy, and John M. Palmer, and former council member, Wesley M. Dial. They were released on \$2,000 bond each but required to testify before Congress in January 1913. The tribal members involved did not face additional prosecution as the Secretary of Interior believed the removal of their position seemed an appropriate action. The Osage Protective Agency’s proposal to separate the mineral rights to individual tribal members, which had been approved by the Tribal Council and forwarded to the Secretary for approval, was denied after the revelation of subsequent bribery among the Osage leadership.⁸⁵ Secretary Fisher believed since the Osage leadership had been infiltrated twice via bribery, any proposals for an alteration of legislation should be ignored due to potential corruption. Fisher was indeed correct in his assumption as John Bird, a tribal member and a member of the Osage Protective Association, accused his colleagues of accepting bribes and calling all four of the 200,000-acre leases “a farce.”⁸⁶ He

⁸³ “Annual Report of the Commissioner of Indian Affairs, Washington, D.C., December 8, 1913,” 29; James A. Carroll, “Annual Report of Osage School and Agency, 1924,” n.p., RG 75, Annual Statistical Reports, 1909-1920, NARA-FW.

⁸⁴ Abbott, “The Navajo Indians and the Public Domain,” 75.

⁸⁵ “Tribe Was Bribed to Accept Lease,” *The Daily Ardmoreite*, July 3, 1913; “New Indictments Oil Lease Cases,” *The Daily Ardmoreite*, October 20, 1913.

⁸⁶ Subcommittee of the Committee on Indian Affairs, “Leases for Oil and Gas Purposes, Osage National Council Hearings on H.R. 27726, January 18 to 21, 1913” (Washington: GPO, 1913), 143.

believed the leasing to “Squaw-men, grafters, and cowboys” had to stop in order to protect the Osage Nation from being pulled apart and succumbing to corruption and greed.⁸⁷

Due to the controversy and demonstrated bribery and corruption associated with the first sealed bid auction in April 1912, the Office of Indian Affairs declined all bids and nullified the auction entirely. Instead, they rescheduled for November 11, 1912, with the express stipulation that bids would only be accepted if the companies had no association with pipeline and oil titans. This auction went smoothly and provided the Osage Nation with a profit of \$39,436 for leasing 24,541 acres. Soon the profits from oil and gas leasing came to be referred to as a “bonus payment” since mineral leasing still counted as “unearned income” by the Office of Indian Affairs. Due to the success of the auction, the high lease payment, and the fact that none of the leases were revoked or tribal members indicted for bribery, the November 1912 auction is considered the first oil and gas auction on the Osage Reservation. The second auction occurred almost a year later, on September 29, 1913, leading to previously unheard of wealth for the Osages. Even though the Osage Agency only approved 10,132 acres for sale, the bonus payment totaled \$498,182. The sealed bid auctions yielded significant payments for the Osage Nation that the Foster Lease had hoped to reach but never saw to fruition. Though the sealed bid auction brought considerable wealth to the Osage Nation, the public auctions that began in 1916 and featured “the encouragement of an auctioneer” generated the vast wealth of the Osages in the 1920s.⁸⁸

⁸⁷ John Bird, “Cut Out Wrangling and Grafting,” *The Osage Journal*, November 21, 1912.

⁸⁸ Cracraft, “The Fabulous Osage, Part 1,” 11; Sells, “Annual Report of the Commissioner of Indian Affairs, Washington, D.C., December 8, 1913,” 29; Baird, 73; Cracraft, “The Fabulous Osage, Part III,” 48; Sells, “Report of the Commissioner of Indian Affairs, Washington, September 21, 1914,” n.p.; H. L. Wood, “Our Government’s Biggest Gambling Center at Pawhuska,” 34.

Though the sealed bid auctions of 1912 and 1913 produced favorable results, the Office of Indian Affairs decided to discontinue the auctions in 1914 and 1915 as they considered whether the Foster Lease should be renewed. Knowing the second ten-year term of the Foster Lease would expire in 1916, the Indian Territory Illuminating Oil Company applied for a renewal of the lease in 1913. They immediately faced intense competition from the Oklahoma Independent Producers Association, which benefited from the open Osage oil auctions. They argued the ITIO wanted “to foist for a longer period this hoary and sucking barnacle that for nearly twenty years has clutched itself upon the very vitals of this fabulous wealth of the Osage Indians.”⁸⁹ Some even argued that the Osages themselves should be able to exert more control over their lands. Although independent oilmen couched their arguments in the idea that moving away from the model of blanket oil leases would benefit the Osages, they likely hoped to strike better deals for themselves without the influence of the federal government. When the Office of Indian Affairs renewed the Foster oil lease in 1906, no party was particularly pleased; the Osage Nation did not fully trust the ITIO to operate efficient wells that would not destroy their lands, and the ITIO was furious at the reduction of acreage and the increase of royalty payments. When the ITIO applied for renewal, the Osage Agency called for a series of hearings on March 8-11 and March 22-23, 1915, specifically so the company could present their strategy for future exploration to the Osage Tribal Council if their lease achieved a third renewal. Once the Tribal Council heard their plans, they debated for several days before drafting a series of resolutions to present to the Secretary of Interior.⁹⁰

During the debates among council members, they considered whether to renew the Foster lease and under what terms or if they would benefit more by denying the renewal and removing

⁸⁹ Miner, 179, 183.

⁹⁰ Sells, “Report of the Commissioner of Indian Affairs, Washington, September 1, 1915,” 32; Ambler, 38.

the ITIO from their relational web entirely. Tribal members distrusted the ITIO employees, particularly because they operated subleases for their own profit rather than the Osage Nation. Charles Revard argued, “They [the ITIO] have done things their own way for many years. What have the Osage People got? ... We have gotten the crumbs and we are not going to take that any more.” He also stated they needed to put their trust in the people rather than the “great corporations.” If they continued along the same path, Revard feared the Osage Nation would find themselves “placed upon the ground under their feet and tramped.”⁹¹ Ultimately the Tribal Council agreed the ITIO “shall be eliminated as an intermediary,” allowing oil leasing to enter the hands of Osage leaders. They asked Congress to extend the federal trust period for Osage claims to their subsurface rights, which at that point extended until 1931, and upon doing so, the federal government would have the first option to purchase any oil produced from the Reservation at the “highest posted market price on the date of the sale.”⁹² In one of the boldest moves towards true tribal sovereignty in the oil and gas field, the Tribal Council declared they alone would have the ability to approve mineral leases. They strictly forbade the Osage Agent, now called Superintendent, or the Commissioner of Indian Affairs to be involved with approving or recommending leases in any way. The Osages knew the only way the Foster Lease had been approved originally was due to the influence of the Osage Agent and Commissioner that had been won through lucrative bribes. Instead of putting themselves in a position where another lease was forced upon them without their approval, the Tribal Council proposed they would review all leases and then forward them to the Secretary of the Interior for approval or disapproval based on their recommendations. From these actions, it is clear the Osage Nation

⁹¹ Miner, 185.

⁹² Sells, “Report of the Commissioner of Indian Affairs, Washington, September 1, 1915,” 32.

had grown tired of being told who could or could not be incorporated into their relational web. Through these measures, the Tribal Council regained control of their affairs.⁹³

In addition to approving all leases, the Tribal Council asked for a dramatic restructuring of the oil and gas leasing system, which would allow them to move away from blanket leases altogether. Councilmembers proposed formatting the mineral leases in a similar manner to their successful grazing and agricultural leases. Just like farming and grazing leases were separated to make the best use of the land, the Tribal Council resolved to separate oil and gas leases as a way to help mitigate wasting natural gas.⁹⁴ Oil producers primarily wanted crude petroleum, not natural gas, since that latter market remained limited in the early twentieth century. This attitude resulted in considerable waste since many “permitted the gas to escape so that drilling or oil could be continued.”⁹⁵ Councilmembers wanted to ensure their resources were used wisely so they could profit economically from all that came from their subsurface rights. To that end, they once again proposed increasing the royalties of oil and gas to one-sixth. This time, they also stipulated that if the well produced 100 barrels of oil and beyond within a month, then the royalty would increase to one-fifth of the production. As an extra assurance that no one would be able to operate a monopoly through a blanket lease, the Osage Council also proposed that all individual leases consist of 160 acres with a cap of 4,800 acres for any one oil developer to possess at any given time. These proposals protected the Osage people from further graft from oil developers

⁹³ Not only did the Congress agree to extend the Osage mineral trust period, but they renewed it until April 8, 1958. Due to continued activism from the Osage Nation, Congress has established the tribe’s mineral rights in perpetuity. *Federal Indian Handbook*, 1048, 1035-1036; Ambler, 149; Wilson, “Chief Fred Lookout,” 49.

⁹⁴ Sells, “Report of the Commissioner of Indian Affairs, Washington, September 1, 1915,” 32-33.

⁹⁵ Sells, “Report of the Commissioner of Indian Affairs, Washington, D.C., September 30, 1920,” 41.

since they allowed them to enter their reservation and their relational web under specific sets of expectations and governing principles.⁹⁶

While the Tribal Council developed stronger regulations for future oil developers, they had to address the many sublessees who operated on the reservation under the supervision of the ITIO. The Osages did not believe individual oil operators should be punished for their association with the ITIO, so they allowed them to continue working on their original tracts, but they had to sign a new lease with the Osage Nation and agree to abide by the new regulations. Those who operated on tracts exceeding 4,800 acres must forfeit what exceeded the new limit, but the wells they had drilled would remain in their possession. One exception was if an individual well produced an average of “25 or more barrels per day.” These wells, few that they were at this point, would be separated from the sublessee and then leased to the highest bidder. The current leased area, including the sublessees operating under the ITIO and those who leased lands through the first two auctions directly from the Osage Nation, consisted of 70,000 acres of “producing territory” and an additional 165,000 “acres of nonproducing territory.” The Osages received royalty payments from all producing areas, but considering the total acreage involved in oil leases, the Tribal Council requested sublessees pay “a rental of \$1 per acre per annum in lieu of development.”⁹⁷ This rental fee stimulated further oil and gas development since sublessees could avoid the fee by drilling wells on the undeveloped portion. Some lessees may have been indignant to the additional stipulations, but many likely paid fewer royalties with their new

⁹⁶ When developers actively collected and sold gas from the Osage lands, the Secretary of Interior stated, the Osage Nation is unique since their gas wells continued to produce profitable quantities of natural gas for an average of four years. Elsewhere in the country, gas wells typically played out around fourteen months. Haskell Institute Club, n.p.

⁹⁷ Sells, “Report of the Commissioner of Indian Affairs, Washington, September 1, 1915,” 32-33.

arrangement with the Osage Nation since they did not have to submit royalties to the Osage Nation and the ITIO.⁹⁸

The Osages altered their leasing procedures to support their people more fully, but they also benefitted from the nation's laws governing oil production during the early nineteenth century. The United States Supreme Court established the "rule of capture" in the ruling of *Brown v. Spilman*. The ruling stated that because oil moves beneath the ground and does not obey property lines, the oil itself does not belong to any oil producer until it is pumped from the ground. As long as no property had been trespassed to secure said oil, then it was legally obtained. The Osage Nation held the rights to the oil and gas under their reservation, but by leasing acreage for the express purpose of extracting minerals, they granted "temporary easements" to the oilmen. This meant whoever drilled productive wells first received the "firstfruits" of the various oil pools. With this law in place, oilmen rushed to secure leases and drill wells before their competition could.⁹⁹ This resulted in an increased desire to procure Osage lands, but Secretary of Interior Hubert Work commented that in essence, "the government is offering something for sale that it does not know whether it possesses at all or where it is."¹⁰⁰ Oil production was a risky venture, but the guidance of tribal leaders ensured the Osage Nation would profit nonetheless. By the time the Tribal Council proposed governing their mineral leases, many referred to the Osage oil fields as likely "to rival that of the Five Civilized Tribes."¹⁰¹ Due to the fervor of oilmen desiring to access even the smallest portion of Osage lands, multiple new oil pools were quickly located. The Foster's had located the Boston Pool, but by the early 1920s, the Myers Dome, Barnsdall, Hominy, Pershing, Dome, Nelagoney,

⁹⁸ Wood, "Pawhuska, Okla., America's Monte Carlo," 36.

⁹⁹ Mount, 93-94; Wood, "Pawhuska, Okla., America's Monte Carlo," 39.

¹⁰⁰ J. C. Chatfield, "Pawhuska Shopping Notes," *National Petroleum News* 11.15 (April 11, 1923), 76.

¹⁰¹ On mineral development among the Five Tribes in Indian Territory, see Angie Debo's *And Still the Waters Run*.

Wynona, and Almeda Pools had been discovered, leading to record oil production.¹⁰² (See Figure 5.1 for additional information about oil production throughout the early nineteenth century)

Figure 5.1 Annual Statistics Related to Oil and Gas Leases, 1906 – 1930

Year	Acreage Leased	Price Per Acre	Annual Lease Profits	Gross Barrels Produced	Annual Royalties ^f	Annual Per Capita Payment ^g
1901	68,000	—	—	10,536	\$603.25	\$0.27
1902	68,000	—	—	10,522	\$448.26	\$0.20
1903	68,000	—	—	52,217	\$2,957.71	\$1.32
1904	68,000	—	—	90,696	\$9,715.74	\$4.35
1905	68,000	—	—	1,868,240	\$128,897.12	\$57.82
1906 ^a	68,000	—	—	4,514,004	\$228,267.34	\$102.40
1907	68,000	—	—	5,547,167	\$301,580.48	\$135.29
1908	68,000	—	—	4,775,289	\$245,795.86	\$110.27
1909	68,000	—	—	4,816,462	\$248,015.53	\$111.26
1910	68,000	—	—	5,991,424	\$233,991.45	\$104.97
1911	68,000	—	—	9,418,769	\$517,691.21	\$232.25
1912 ^b	24,541	\$1.60	\$39,436	9,445,669	\$656,176.47	\$312.07
1913	10,132	\$49.16	\$498,182	7,787,030	\$778,500.22	\$572.76
1914 ^c	—	—	—	11,091,791	\$1,368,392.08	\$613.90
1915	—	—	—	7,257,788	\$524,252.52	\$235.19
1916	16,859	\$191.40	\$3,226,880	9,805,477	\$1,097,854.71	\$1,940.21
1917 ^d	28,029	\$129.32	\$3,624,800	9,963,919	\$5,417,815.95	\$4,056.80
1918	99,140	\$59.11	\$5,860,275	10,906,376	\$4,602,799.75	\$4,694.06
1919	93,641	\$145.58	\$13,632,800	12,139,086	\$5,420,674.71	\$8,547.99
1920	97,713	\$101.81	\$9,948,350	17,077,348	\$9,235,691.80	\$8,606.56
1921	61,574	\$191.97	\$11,820,700	20,621,614	\$14,072,541.61	\$11,616.52
1922	66,688	\$222.52	\$14,839,650	28,941,934	\$9,235,691.80	\$10,800.96
1923	47,711	\$298.60	\$14,246,600	41,810,178	\$14,072,541.61	\$12,704.86
1924	68,717	\$254.82	\$17,510,800	37,677,900	\$11,879,495.15	\$13,185.41
1925 ^e	10,834	\$61.60	\$667,450	33,662,173	\$11,144,492.65	\$5,299.21
1926	59,155	\$103.24	\$6,107,205	26,682,840	\$10,349,863.76	\$7,383.16
1927	37,466	\$125.42	\$4,699,200	25,684,734	\$10,386,837.61	\$6,768.07
1928	108,398	\$35.55	\$3,853,931	21,741,225	\$6,032,117.05	\$4,435.19
1929	18,420	\$22.58	\$416,100	16,629,115	\$4,925,777.78	\$2,396.53
1930	22,178	\$5.87	\$130,380	13,711,611	\$4,960,038.81	\$2,283.72

Sources: Compiled from Commissioner of Annual Affairs Statistical Reports, RG75, Annual Narrative and Statistical Reports for Field Jurisdictions of the Bureau of Indian Affairs, 1907-1938: Osage, 1910-23, NARA-FW, Cracraft, "The Fabulous Osage, Part III," 48, *National Petroleum News*, Workers of the Writers' Program, *Federal*

¹⁰² Valentine, "Report of the Commissioner of Indian Affairs, Washington, September 15, 1909," 51; Mount, 100.

Indian Law Handbook, The American Indian, ed. Lee F. Harkins, Vol. 1.1, Oct 1926) R. G. Fister and George V. Labadie, *Golden Book of the Osages*, (Tulsa: n.p., 1960); File No. I.C. #62-5033, Box 15, F9, Fred Grove Papers; Meriam; Vaux, 71.

- ^a From 1906-1911, no lease sales were made since the Foster Lease was in full effect. Even though they only controlled a portion of the Osage Reservation, no lands beside the 68,000 acres were leased by the Tribal Council or the Office of Indian Affairs.
- ^b The first two sealed bid auctions occurred in 1912 and 1913. Note: the Foster's Lease of 68,000 acres is not listed in the chart after 1911 since they did not participate in the oil lease economy in the same way. The ITIO remained in control of their acreage until the Foster Lease expired in 1916.
- ^c The Office of Indian Affairs did not allow lease sales to occur during 1914 and 1915 as they prepared for transitioning from the Foster lease to open auctions with oil developers.
- ^d The Tribal Council reserved 5,120 acres of known oil lands exclusively for the United States Government to use throughout World War I. The government would have to reimburse the Osages for royalties but were exempt from leasing payments or competition. The Osage Nation willingly set aside this portion of land specifically to support the war effort and to further demonstrate their "faith and confidence in their Government" as they had "established in the first Treaty of 1808 and has continued...to the present time." The land reserved for government and naval use was reported to be "the most promising underdeveloped territory," but the Navy never drilled on the so-called Naval Reserve Oil Field. Instead, they returned the land to the Osages on February 25, 1927. When the Osages did lease the former Naval Reserve lands, oil developers produced 18,000,000 barrels of oil. Osage Tribal Council, *Osage Indians Semi-Centennial Celebration, 1907-1957*, n.p.; White, *Structure and Oil and Gas Resources*, ix.
- ^e The Osage Nation only held one lease sale during this year. Typically, the Osage Agency organized sales two to four times a year, so this was an unusual anomaly. Due to available evidence, it seems as though sales were delayed to create more demand for development and therefore raise prices the following year.
- ^f Annual royalties for oil were to be calculated by the "highest posted price." This caused some confusion among developers since the price for oil varied between where it was extracted, refined, and ultimately sold. They wanted to increase their profit margins by paying the Osage Nation fewer royalties. Commissioner of Indian Affairs Charles Burke determined that the Osages' royalty would be \$1.25 per barrel and then raise to \$1.50 per barrel in November 1921. This price remained in effect until Commissioner Burke raised the price in the spring of 1929 to \$2.25 a barrel. "Suggest Amendment to Royalty Schedule," *National Petroleum News*, 14.6 (February 8, 1922), 56; "Commissioner Defines Highest Posted Price," *National Petroleum News*, 11.9 (March 1, 1922), 63; "Two Tracts Break Previous Records for Osage County Acreage," 25, *Ibid*.
- ^g The per capita payments listed here only include income derived from oil lease auctions, the so-called bonus payments, and royalties from barrels of oil produced from the reservation. Royalties from natural gas remained significantly lower throughout the oil boom and have been omitted from this chart. The Osage Nation had many sources of income even as the oil boom continued to grow. Income sources from grazing leases, livestock taxes, agricultural leases, crop, timber, and other natural resource sales, fees charged for non-tribal members, etc., are not included. Oil development did not replace these economic ventures but simply supplemented the Osage Nation's many financial interests. The per capita income was calculated by the number of headrights determined at the 1906 tribal census and rolls. The tribe naturally continued to grow, yet the original 2,229 headrights remained the definite division of tribal assets. Vaux, 71; Meriam, 545.

The transition period away from the blanket lease included some adjustment, particularly as new leases were drawn between the ITIO sublessees and the Osages, but most oilmen looked forward to the future benefits.¹⁰³ Upon reviewing the proposal from the Osage Nation,

¹⁰³ One sublessee, the Barnsdall Oil Company, faced two challenges – their acreage was reduced to the 4,800 acre limit and as they waited for their new lease they continued oil production. The latter became an issue because they technically operated without a lease from March 16, 1916 to June 20, 1916. The Barnsdall Oil Company saw an opportunity to pump oil without restrictions from the Department of Interior or the Osage Nation. Most importantly

Commissioner Cato Sells approved their resolutions without alteration. He believed their proposal to be fair and measured and would benefit the Tribal Nation since they would “receive considerably more revenue under the new leases than they received under the Foster lease.” In fact, Sells estimated the Osages would receive “six or eight times as much” as they had previously. Gas royalties as operated under the Foster Lease averaged around \$12,000 annually, but Sells estimated the individual leases under Osage control would “amount, during the first year, to at least \$700,000.”¹⁰⁴ Sells expected oil royalties to increase even more dramatically due to the growing demand for crude. While annual averages for oil under the Foster lease reached around \$500,000, the new leasing arrangements “will aggregate at [least] \$2,500,000, in addition to the \$3,233,120 received in cash” at the first open auction sale in 1916. Once the Osages gained control of their oil and gas leases, they operated within the prosperous leasing economy they had honed since the 1880s.¹⁰⁵

Prior to the 1910s, the Osage Nation experienced limited benefits from the Foster Lease.

The primary sources of income still came from grazing and agricultural leases and the interest

they did not pay royalties on whatever oil they produced during this period. The Office of Indian Affairs filed suit against the company since the Secretary of the Interior “had no authority to arrange for interim operations pending the new leases” and the company should remit back royalty payments to the Osage Nation. However, the Court of Appeals ruled the Barnsdall Oil Company did not have to pay royalties or interest since if they had stopped production entirely as they waited for their new lease, the Osage economy would have been detrimentally affected. Wood, “Pawhuska, Okla., America’s Monte Carlo,” 36-39; Lamsam and Johansen, 275, 279; *Federal Handbook of Indian Affairs*, 60.

¹⁰⁴ This was a particularly lofty figure prior to 1920. The Tribal Council had stipulated all natural gas stayed on the reservation for tribal use and to supply gas to towns within the reservation boundaries. With the start of public leasing, more natural gas was produced than the reservation could consume, but because the Tribal Council had not approved the sale of gas outside the reservation, producers had to cap their wells. With the gas wells “shut in” the only benefit the Osages received came from the “\$100 per annum paid for each unutilized gas well.” The Tribal Council later corrected this issue and soon after saw dramatic increase in profits from natural gas in addition to oil, however, natural gas values never truly rivaled the rates from oil production. J. George Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 15, 1916,” n.p., RG 75, Annual Narrative and Statistical Reports from Field Jurisdictions of the Bureau of Indian Affairs, 1907-1938: Osage, 1910-23, NARA-DC.

¹⁰⁵ Cato Sells, “Report of the Commissioner of Indian Affairs, Washington, October 2, 1916,” in the *Annual Reports of the Commissioner of the Office of Indian Affairs* (Washington, D.C.: GPO, 1916), 59; J. George Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 15, 1916,” n.p.; Miner, 184-185.

secured from the money held in trust from their Kansas lands.¹⁰⁶ At the time of statehood, Osage Chief O-Lo-Hah-Wah-Lah received \$1,530 in April 1906 as his quarterly payment for himself and his family of eleven children. This sizable payment consisted of very little from oil production executed by the Foster Lease or their sublessees.¹⁰⁷ In fact, one reporter from the *National Petroleum News*, the premiere publication for oilmen around the country, stated that in 1903 each tribal member received a total of “\$42 every three months” from oil royalties.¹⁰⁸ These relatively low profits from an industry that polluted the land led tribal members and the Tribal Council to argue against additional blanket leases. The following two years after the Foster Lease expired, the Osages earned close to \$12,000,000 from lease sales and royalties from oil. By 1924, tribal members received over \$90 million, which equated to a per capita share of \$40,794. To see this dramatic rise of oil production beside the increased wealth of the Osage Nation, see figure 5.1.¹⁰⁹

When oil auctions began in 1916, the newly elected Tribal Council and Principal Chief Fred Lookout relied on the bureaucratic system of the local Osage Agency and, by extension, the Office of Indian Affairs. Relying on the external relationships and alliances, they cultivated with employees of the Osage Agency allowed for additional oversight and supervision of oil and gas

¹⁰⁶ To be sure, leases from grazing profits fluctuated according to market prices and weather. During 1912, the region suffered from a severe drought. This created additional demand for feed from Osage farmers. During the fall and winter seasons ranchers purchased hay, “corn, and kaffircorn [i.e. sorghum] brought exceedingly high prices.” Even experiencing the ups and downs of the market, ranching and the subsequent grazing leases remained a profitable venture for the Osages. James A. Carroll, “Annual Report of the Osage Indian School, August 12, 1912,” RG 75, Annual Narrative and Statistical Reports, NARA-DC, n.p.; J. George Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, July 29, 1921,” RG 75, Annual Narrative and Statistical Reports NARA-DC, n.p.; Wright, “Annual Report of the Osage Indian Agency, June 30, 1922,” n.p.

¹⁰⁷ Hicks, 9; Newman, 184; Mitscher, “Report of Osage Agency, Pawhuska, Oklahoma, August 14, 1901,” 327; Mitscher, “Report of Osage Agency, Pawhuska, Oklahoma, August 21, 1902,” 294; Mitscher, “Report of Osage Agency, Pawhuska, Oklahoma, August 22, 1903,” 270; Frantz, “Report of Osage Agency, Pawhuska, Oklahoma, August 16, 1905,” 306; Osage Tribal Council, *Osage Indians Semi-Centennial Celebration, 1904-1957*, n.p.

¹⁰⁸ Wood, “Our Government’s Biggest Gambling Center,” 38.

¹⁰⁹ “Handles \$400,000 Oil Funds for Indian Tribes,” *National Petroleum News*, 10.18 (May 1, 1918), 52; A. F. Hinton, “Osage Sale Brings Fourteen Millions: All Previous Records Broken,” *National Petroleum News*, 16.13 (March 26, 1924), 25.

leasing. Utilizing their relational web in this way provided additional protections for tribal members while they continued to live lifestyles of convenience rather than focus all their attention on managing the now expanded leasing economy. The Office of Indian Affairs established a series of guidelines to ensure the auctions resulted in fairly won tracts, bidders maintained order, and the Osage Nation received a fair price for their lands. The Osage Agency employees documented every portion of the oil and gas leasing process and continually mapped where leases were held, by whom, as well as potential areas and tracts for future leasing. Each lease offered consisted of 160 acres, and prior to lease auctions, developers could find available leases scattered about the reservation so the Osage land can be “tested for oil” in various places.¹¹⁰ The office did take into account tracts located near producing wells and proven land, requests for specific sections from developers, and areas recommended for production through the United States Geological Survey. The Osage Agency offered 100,000 acres for leasing during each calendar year in order to continually cultivate demand for tracts. Many oil developers wanted a larger offering of tracts at each auction, but by regulating the number of lots offered in a single auction, the Osage Agency increased demand among bidders.¹¹¹ Instead of leasing the Osage Reservation at one time, the Osages received desirable and, at times, even over market value for oil and gas leases.¹¹²

The climate of the Osage lease sales was unrivaled. Witnesses reported an excited, almost frenetic energy attributed to the excitement and anxiety akin to gambling. The first

¹¹⁰ J. George Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 14, 1919,” n.p., RG 75, Annual Narrative and Statistical Reports, NARA-DC.

¹¹¹ Haskell Institute Club, n.p.; A. F. Hinton, “Osage Sale Brings Less Than Million; 351 Tracts Offered, 271 Passed,” *National Petroleum News*, 17.12 (March 25, 1925), 40; Hinton, “Osage Sale Brings in Two Millions As Many Tracts are Passed,” 21.

¹¹² By 1929 the majority of Osage lands had been leased, particularly the most desirable located on the Eastern portion of the reservation. The Osage Agency reduced the acreage sold in one year as long as they continued to offer as least 25,000 acres. Chap. 493, March 2, 1929, 45 Stat. 1478 in Barney, 87; *Federal Handbook of Indian Law*, 1048; “High Prices Feature Latest Osage Sale,” *National Petroleum News*, 11.11 (March 12, 1919), 14.

auctions seemed subdued compared to those held in the early to mid-1920s since esteemed oil barons attended with regularity. Since the Osage auctions occurred in one day, people descended upon the Osage Reservation, particularly Pawhuska. Some came from the surrounding areas in Oklahoma and Kansas, but others came from distant metropolitan areas curious to see the spectacle the newspapers so frequently reported. In too many accounts, the Osages themselves get lost in the crowd or simply dismissed for “not quite understanding what it is all about, but catching the holiday spirit, and enjoying the passing show.” However, none of these events could have occurred if not for the wholesale redrafting of leasing by the Tribal Council. They recognized they could secure additional financial security for their people by expanding their external relational web and leasing economy.¹¹³

On warm and fair-weather days, the auctions occurred under a large elm tree near the Osage Agency. Due to the ever-increasing number of lots leased for over a million dollars, people soon referred to the tree as the Million Dollar Elm. This tree became a memorable feature of the Osage Agency grounds due to the prevalence of newspapers mentioning high-priced sales occurring in an unrefined manner underneath a shade tree. During colder or inclement weather, auctions occurred in downtown Pawhuska at the Constantine Theater, originally called the Ki-He-Kah Theater. Frequent attendees typically sat in specific seats and were easily identifiable to all in attendance.¹¹⁴ It seemed incredulous to J. B. Gambrell that the Osages would ever need a theatre since they “never viewed the trials and tribulations of ‘Uncle Tom’ of cabin fame” and regarded the oil auctions “with more thrills.”¹¹⁵ Others described the

¹¹³ Haskell Institute Club, n.p.

¹¹⁴ Haskell Institute Club, n.p.; Workers of the Writers’ Program of the Work Projects Administration, 290; Wood, “Our Government’s Biggest Gambling Center at Pawhuska,” 34; “Osage Indians Six Million Dollars Richer By Twentieth Lease Sale,” *National Petroleum News*, 15.4 (January 24, 1923), 21; Chatfield, “Pawhuska Shopping News,” 76, *Ibid.*

¹¹⁵ J. B. Gambrell, Jr., “Seven Million Dollar Lease Bonuses in Latest Osage Sale,” *National Petroleum News*, 13.50 (December 14, 1921), 18.

theater as “dingy rows of seats filled with a motley throng” on auction days. Attendees consisted of “A gray-haired little man representing wealth incalculable, perhaps the wealth of Standard Oil itself, might occupy a seat beside a squaw in a blanket or an opera cloak imported from the Rue de la Paix.” Outside observers clearly had no understanding of the Osage Nation, their intelligence, effective negotiation, or wealth, instead choosing to describe tribal members with degrading and paternalistic language. White, non-Native witnesses willfully ignored the long history of Native peoples and how that informed modern decisions and strategies to protect and aid their people. Rather than perform unbiased research, contemporaries and generations of armchair historians have represented the Osage Nation as receiving wealth immeasurable based on no action of their own. Nothing could be further from the truth. Tribal leaders continually strived to negotiate beneficial arrangements that would not just allow their Nation to thrive but also place the Osages in control of their own affairs. Tribal leaders’ actions and commitment to their relational web among tribal members placed them in a proactive position rather than passively receiving “unmerited riches” as is often described by those outside the Osage Nation.¹¹⁶

The Osage Agency announced lease sale dates in local and regional newspapers and quickly spread among the oil community through special interest publications. Nearly every auction led to Pawhuska being inundated with visitors. In fact, the *Pawhuska Daily Capital* reported the whole city was “turned over to the oil industry” during sales. Sometimes crowds as large as 2,000 to 3,000 individuals arrived.¹¹⁷ This influx of population caused some logistical complications, such as crowded streets and lines to find something to eat, but the Pawhuska community seemed to have capitalized on the magnanimity of the visitors. For example, the

¹¹⁶ Glasscock, 264.

¹¹⁷ *Pawhuska Daily Capital*, June 14, 1921.

Methodist and Presbyterian churches served fried chicken during the lunch break to raise funds for their organizations.¹¹⁸ At times, charity organizations took advantage of the auction proceedings themselves by asking for donations between sales. In 1920, Miss Mary Ash Miller came to ask for donations for Anne Morgan's charity to rebuild war "devastated sections of France." By all accounts, the oil men proved to be generous donors, even contributing thirty dollars for a quilt auctioned for a local charity, over \$400 in modern currency.¹¹⁹

Even though hundreds and at times thousands of individuals descended on Pawhuska for lease sales, getting to the auction could be troublesome. Pawhuska is located twenty-eight miles east of Bartlesville and fifty-seven miles northeast of Tulsa, the two most common locations individuals traveled from since several large oil firms maintained offices in the area. Traveling by horse or carriage could take a day or more, and while travel via automobile could be accomplished, it usually required an additional day of travel so they could have "plenty of time to negotiate the muddy roads."¹²⁰ The most feasible mode of transportation was by special train. Some oil developers, such as William Skelly, operated private trains. Others who obtained day cars hooked their coaches to trains like the Skelly Special to reach the sales.¹²¹ One of the first special trains in 1918 contained a couple of hundred men who "amused themselves by drawing up and signing a resolution beginning: 'Resolved, That we who are again about to make fools of ourselves by paying more than they are worth for various pieces of land for fear some other fellow will beat us to a chance to do the same.'"¹²² By 1920, so many traveled to the auctions by

¹¹⁸ Wood, "Our Government's Biggest Gambling Center at Pawhuska," 36.

¹¹⁹ "Bidding is Less Spirited at Latest Osage Sale Than At Previous Ones," 72.

¹²⁰ A. F. Hinton, "Bidders at Osage Sale Show Secretary Some Spirited Competition," *National Petroleum News*, 15.15 (April 11, 1923), 75-76.

¹²¹ "Two Tracts Break Previous Records for Osage County Acreage," *National Petroleum News*, 14.10 (March 8, 1929), 25.

¹²² "Some Leading Actors in Osage Sale Prepare to Develop Big Osage Purchase," *National Petroleum News*, 10.47 (November 20, 1918), 27.

the special train, Superintendent Wright refused to start the auction before its arrival. As a result, some auctions did not begin until late morning and continued well after dark. At the end of the auction, the throng of oil developers returned to the train and departed the reservation leaving Pawhuska and its permanent residents behind.¹²³

One feature remained consistent throughout the Osage auctions – the auctioneer Colonel E. Walters. The Osage Agency hired Walters to conduct the auctions starting in 1919, and he continued to act as the Osage auctioneer until March 26, 1941.¹²⁴ Because of his long service, particularly during the oil boom, he became one of “the most famous auctioneer of oil leases in the world,” and he gained the support and trust of the Osage Nation due to his fairness and regard for their interests.¹²⁵ Colonel Walter’s experience with Native Nations and especially the Osages originated during his childhood, as his father served as an Indian Agent in Indian Territory. Walters even remembered being a small boy when his father took him to the Canville Treaty proceedings when the Osages agreed to move to Indian Territory. Even when he started his auctioneering career, Walters stayed involved with Native communities by helping to auction farms and livestock and Choctaw coal-rich lands around McAlester for the highest price. When Walters assumed the auction block, he commanded the attention of the crowd and with “his great voice, gestures and humor, appealing direct to the crowd has added some millions of dollars to

¹²³ The special train that originated from Tulsa provided a unique feature for travelers. The *National Petroleum News*, in addition to sending a reporter to the auctions, they also established a small printing press on the train so they could produce “a special Osage sale edition.” This much “looked-for feature” included a recap of the day’s events, the tracts offered, purchasers, and prices for each tract. The printers rushed to hand out the “sale edition” within thirty minutes of leaving Pawhuska. This publication proved to be very challenging from writing the article, formatting the typeset, and then “the printing was done on a small press used for printing handbills.” The following day, copies would be mailed to subscribers. “Osage Indians Six Million Dollars Richer By Twentieth Lease Sale,” 21. A. F. Hinton, “Osage Sale Brings in Two Millions As Many Tracts are Passed,” *National Petroleum News*, 18.40 (October 6, 1926), 21; “High Prices Feature Latest Osage Sale,” 14; Wood, “Our Government’s Biggest Gambling Center at Pawhuska,” 34; “Has Sold 10 Times As Much Property Under Hammer as Any Other Man,” *National Petroleum News*, 14.9 (March 1, 1922), 28.

¹²⁴ Cracraft, “The Fabulous Osage, Part III,” 48; Lucas, 13.

¹²⁵ Glasscock, 263.

the Osage tribal fund.”¹²⁶ He always wore brightly colored silk shirts to stand out from the crowd and developed a rapport with oil developers that he used to entreat them to increase their bids, thereby earning the Osages even more money. The Osage Nation recognized Walter’s influence and aid to the Tribal Nation as well as his friendship by presenting him with a diamond ring with a “large blue-white African diamond.” Later the Tribal Council commissioned a custom gold medal featuring the original diamond along with “a hand-wrought head of Chief Iron Tail, the famous fighting man of the Sioux, who was Sitting Bull’s right hand man and advisor in that warrior’s many battles with the white men, and whom the Osages look upon as a great hero.”¹²⁷ These lavish gifts not only prominently displayed their wealth and thankfulness to Walters but also signified their inclusion of the trusted auctioneer within their relational web.¹²⁸

The first two public lease sales provided the Osages with a considerable bonus payment and resulting royalties. The next ten years featured sales that seemed to outdo the previous year. The 1918 sale produced quite a stir among attendees because the American Pipe Line Company had located an oil well four days prior to the November 10th sale. Finding a well estimated to produce 5,000 to 7,000 barrels of oil per day would stimulate bidding, but this particular well would be offered for auction since the American Pipe Line Company had leased Tract 6 for gas wells only.¹²⁹ According to the rules stipulated by the Tribal Council and implemented by the Secretary of Interior, gas and oil leases were sold separately. Because the American Pipe Line

¹²⁶ Wood, “Our Government’s Biggest Gambling Center At Pawhuska,” 34, 36.

¹²⁷ “Has Sold 10 Times As Much Property Under Hammer as Any Other Man,” 28.

¹²⁸ Wood, “Pawhuska, Okla., America’s Monte Carlo,” 40; “160-Acre Lease Brings \$1,600,000 At Record Breaking Osage Auction,” *National Petroleum News*, 14.27 (July 5, 1922), 81; “Osage Indians Six Million Dollars Richer By Twentieth Lease Sale,” 21; Mathews, *Life and Death of an Oilman*, 113; Hinton, “Bidders at Osage Sale Show Secretary Some Spirited Competition,” 75.

¹²⁹ “Big Well in Osage Far from Production is Week’s Sensation,” *National Petroleum News*, 10.46 (November 13, 1918), 25; “Some Leading Actors in Osage Sale Prepare to Develop Big Osage Purchase,” 27.

Company did not have a lease for oil development, the oil well had to be capped and surrendered to the Osage Nation to be auctioned in the next sale. When this well came up for auction, “spirited bidding” occurred until the Gypsy Oil Company, in partnership with H. G. Barnard, Frank Phillips, and J. J. McCraw purchased the well for \$600,000.¹³⁰ Whenever companies discovered large producing wells, a rush to obtain acreage around the leased lot occurred. The earliest discoveries of oil occurred in the eastern portion of the reservation, which was fortuitous since those lands were the closest to supplies and transportation. As development grew, more oilmen participated in “wildcatting” on the unexplored lands in the western parts of the reservation. Ultimately, the risks oilmen took were rewarded when they discovered the Burbank Oil Field, which proved to be one of the most lucrative oil fields. People hoped to secure a portion of the impending fortune by any means. The Osage people watched as they had learned from the lore of the black spider – that they alone controlled the resources and simply allowed individuals to profit from their land.¹³¹

Oil developers rushed to claim a piece of Osage oil lands because they feared the Osage’s lands would be leased quickly. This meant sale prices continued to climb even when previous oil leases resulted in minimal returns. The June 1919 auction brought another five million dollars in the Osages funds, despite the leases sold during the March sale bringing relatively unremarkable oil and gas production. Due to the increasing sale prices of individual tracts, Superintendent Wright announced new bidding guidelines that would increase the overall tract

¹³⁰ “Record Priced Paid in Osage Indian Land Sale at Pawhuska,” *National Petroleum News*, 10.46 (November 13, 1918), 18.

¹³¹ “High Prices Feature Latest Osage Sale,” 14; Wood, “Pawhuska, Okla., America’s Monte Carlo,” 40; Mathews, *Life and Death of an Oilman*, 116; Wood, “Our Government’s Biggest Gambling Center at Pawhuska,” 36; Lucas, 15; Mathews, *Life and Death of an Oilman*, 112; Gambrell, “Seven Million Dollar Lease Bonuses in Latest Osage Sale,” 17; White, *Structure and Oil and Gas Resources of the Osage Reservation*, xii; “160-Acre Lease Brings \$1,600,000 At Record Breaking Osage Auction,” 81; Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 14, 1919,” n.p.

price while also speeding up the bidding process. People could bid however they liked until a tract reached \$5,000, at which point the Agency no longer recognized bids less than \$500 increments. If bidding reached over \$20,000, the bidding increments increased to no less than \$1,000 at a time.¹³² William Skelly, one of the most prolific oil producers of the time, expressed his displeasure with the changes when Colonel Walters ignored his bid of \$40,500 for the tract in question in favor of Mrs. Hiatt's bid of \$40,000. Skelly "brought a vigorous protest" with "the sympathy of the bidders," and many thought the rule would be altered by the next lease date. However, for the benefit of the Osage Nation, the Osage Agency disregarded Skelly's pride and kept the bidding increments in place.¹³³

Although big oil producers remained a steady fixture at the oil auctions, small developers sometimes proved the most fortunate, and often, their finds prompted more sales from large oil companies. J. H. Alexander, a smaller producer from Tulsa, took a gamble and purchased a quarter section tract for \$300,000, one of the highest prices paid for unproven ground. Alexander's gamble paid enormous dividends when he drilled two wells, one of which produced 1,000 barrels of oil daily. Despite Alexander's success, more likely than not, oil companies gambled and risked everything.¹³⁴ One individual purchased 160 acres between two proven areas with large wells in the October 1919 sale, thinking he would also be successful in securing paying quantities of oil. His venture resulted in "two dry holes and a small producer." The Osage Nation and the federal government knew the risks associated with oil speculation and readily took "advantage of that human foible."¹³⁵ Regardless of this fact, each auction featured

¹³² "Some Leading Actors in Osage Sale Prepare to Develop Big Osage Purchase," 27.

¹³³ "Sale of Osage Leases Nets Over \$5,000,000," *National Petroleum News* 11.24 (June 11, 1919), 24; "Osage Indians Show their Appreciation," *National Petroleum News* 11.43 (October 22, 1919), 58.

¹³⁴ "Records Broken at Osage Land Sale," *National Petroleum News*, 11.41 (October 8, 1919), 26; "High Prices Feature Latest Osage Sale," 14; "Sale of Osage Leases Nets Over \$5,000,000," 24.

¹³⁵ Wood, "Our Government's Biggest Gambling Center at Pawhuska," 36.

“the biggest names in America squatting there on the grass, as common as an old shoe, and when they raised their hands it meant millions.” Some even joked that “a fella [could] raise his hand to scratch his head and he had himself a million-dollar lease.”¹³⁶ Although this was reported in jest, in at least one case, this actually occurred. In a 1921 auction, Harry Sinclair got caught up in the bidding and offered \$467,000 on a tract, but then admitted he did not know “which tract was being offered.” They stopped the bidding so he could locate it on the map but then quickly jumped back into the auction by raising his bid to \$600,000. Every auction contained unique features, but risk and hope remained prominently on display.¹³⁷

The 1920 auctions featured even more rapacious bidding as multiple productive wells had been found just before the auction. During the October 12, 1920 auction, news came that the Gypsy Oil Company had struck oil that very afternoon and at the time of the lease sale had produced 170 barrels of oil per hour. Naturally, this spurred bidding, and some developers, such as the Phillips Petroleum Company, purchased tracts for \$1,500 per acre.¹³⁸ It is important to note that not all lease sales rivaled one another in excitement. Most auctions featured excitement interspersed with some lackluster bidding which caused auctioneer Walters “to work unusually hard to get the fellows to bid.”¹³⁹ The June 14, 1921 auction resulted in more than five hours of slow bidding on 120 tracts, but after the dinner break, forty-seven tracts sold “within an hour and a half” for a total of over \$3.7 million. The variety of sales and enthusiasm of bids directly

¹³⁶ Mathews, *Life and Death of an Oilman*, 112.

¹³⁷ Gambrell, “Seven Million Dollar Lease Bonuses in Latest Osage Sale,” 18.

¹³⁸ Even as the price per acre soared during auctions, Colonel Walters continued to push for higher bids from the wealthy oil producers. A reported noted Walters grew “peevisish and [began] to browbeat and scold bidders because they hesitate a second when contemplating a five-thousand-dollar raise over a hundred-thousand-dollar bid.” Wood, “Pawhuska, Okla., America’s Monte Carlo,” 40. “Development of Stephens County Field Feature in Oklahoma,” *National Petroleum News* 12.21 (May 26, 1920), 69; J. B. Gambrell, Jr. “Gypsy Completes 4,000-Barrel Well As Osage Sale Progresses,” *National Petroleum News* 12.41 (October 13, 1920), 25; Wood, “Our Government’s Biggest Gambling Center at Pawhuska,” 36.

¹³⁹ “Keen Bidding for Leases Surprises Onlookers at Osage Land Sale,” *National Petroleum News* 13.24 (June 17, 1921), 25.

related to the tracts listed for sale. Unproven or unexplored territory typically brought low-profit yields, particularly if the Osage Agency offered “tag ends,” which consisted of tracts that had not been purchased at previous sales, producers had defaulted on their payments or land that included dry wells and had subsequently been surrendered back to the Osage Nation.¹⁴⁰ Even when reporters called sales slow throughout the 1920s, the Osages still received sizable bonus payments in addition to mounting royalties paid in quarterly increments.¹⁴¹

The best tracts offered at the lease sales sold for exorbitant prices. One tract at the March 2, 1922 auction sold for \$1,135,000¹⁴², leading a reporter to write, “It has got so now at an Osage sale, that anything less than a million and a half is chicken-feed, and scarcely worth recording.”¹⁴³ Many oil developers could not afford the steep fees, with the most favorable lands selling around one million dollars. While some developers engaged in competitive bidding when leasing first began, by the 1920s, those same developers pooled their resources to win the most promising leases. In addition to raising more capital to secure leases among the Osage oil fields, developers continually tried to circumvent the acreage restrictions imposed by both the Osage Nation and the Secretary of Interior. In order to avoid creating a monopoly, as had been the case with the Foster lease, oil developers could possess no more than 4,800 acres, the equivalent of thirty tracts, for oil and gas development. Nevertheless, individual oilmen, such as E. W. Marland and many others, established multiple companies to accrue additional acreage and avoid the ready appearance of a monopoly. Marland owned the Marland Oil Company, the Kay

¹⁴⁰ “Two Tracts Break Previous Records for Osage County Acreage,” 25.

¹⁴¹ Since the Osage Agency published the tracts offered in advance of each auction, some large oil producers would forego sales they were uninterested in, but they always sent scouts to keep an eye on the proceedings. If a lull occurred during an auction, some of the wealthiest oil men would leave the auction and take a leisurely lunch. In the case of the June 14, 1921 auction, “many oil men went to the baseball game in the afternoon” instead. “160-Acre Lease Brings \$1,600,000 At Record Breaking Osage Auction,” *National Petroleum News* 14.27 (July 5, 1922), 81.

¹⁴² “Two Tracts Break Previous Records for Osage County Acreage,” 25.

¹⁴³ Hinton, “Osage Sale Brings Fourteen Millions,” 24.

County Gas Company, Comar Oil Company, Tom James Oil Company, Kenney-Cleary Oil Company, and Francoma Oil Company, among other contractors, which allowed him to lease close to 200,000 acres. The Osage Agency records showed no real hint of impropriety, but in reality, all these companies held office space in Marland's office building. It is not clear if the Osage Nation or Superintendent Wright knew about this strategy, but they likely suspected companies operated under this system. Regardless, both Wright and the Tribal Council's concern remained leasing the land to the highest bidder. If oilmen reached their limit for acreage, they could not participate in auctions until they released some of their holdings, limiting the bidding and resulting in less revenue for the Osages.¹⁴⁴

In the 1920s, more people came to the Osage auctions not just to watch the bidding and experience the oft-reported excitement but also to see influential politicians. Senator Thomas P. Gore attended the May 18, 1920 auction to address the oil men since he had introduced two amendments to recent bills that benefitted the oil industry. In 1923, Secretary of Interior Hubert S. Work, Commissioner of Indian Affairs Charles H. Burke, along with four representatives from Oklahoma attended their first auction among the Osages during the height of record-breaking sales. Attendees felt a little nervous with their presence, but the special guests "[were] visibly impressed with the bidding on tracts offered at the Osage sale."¹⁴⁵ Secretary Work remained on the stage near Colonel Walters for the majority of the day. The March auction featured the first two-day sale, the highest price for a single lease – \$1,990,000 by Midland Oil Co. – and the J. Edgar Pew of the Sun Oil Company started the bidding on another tract "at a cool million

¹⁴⁴ Marland eventually served in the House of Representatives for the Eighth District of Oklahoma and later was elected as Governor of Oklahoma in 1934. For additional information about Marland's oil businesses and political career, see Mathews, *Life and Death of an Oilman*. "160-Acre Lease Brings \$1,600,000 At Record Breaking Osage Auction," 81; Wood, "Our Government's Biggest Gambling Center at Pawhuska," 34, 36; "High Prices Feature Latest Osage Sale," 14; Mathews, *Life and Death of An Oilman*, 114.

¹⁴⁵ Chatfield, "Pawhuska Shopping Notes," 76.

dollars.”¹⁴⁶ Even a blizzard during the December sale did not diminish the annual profits for the Osage Nation.¹⁴⁷ Despite the record-breaking sales of 1924, the *National Petroleum News* reporters predicted the Osage sales would likely be much smaller affairs going forward simply because the largest and most productive oil field, Burbank Field, had been fully mapped, and the majority of the acreage comprising the area had been leased. The primary Osage reporter, A. F. Hinton, was partially correct in his prediction. The lease sales did start to dwindle starting in 1925, but the royalties from the leased lands continued to sustain the Osage Nation.¹⁴⁸

The oil and gas lease sales continued to remain profitable for the Osage Nation, but 1925 proved a true exception. Superintendent Wright only scheduled one sale when the Osage and oil developers had been accustomed to three to four annual sales. Oil prices had, in fact, increased earlier in the year and the Tribal Council hoped for a profitable sale, but “only a handful of oil men, compared with its crowded trips of the past” traveled via the special train.¹⁴⁹ Throughout the sale, the minimum bid for a tract remained at \$500, but the Tribal Council had passed an additional regulation stating those who purchased a lease had to drill a well within one year, which could have contributed to bidders cautious actions. Another reason for a disinterested crowd could be attributed to the tracts offered being located closer to homestead allotments,

¹⁴⁶ “Osage Sale Brings Fourteen Millions,” 24-25.

¹⁴⁷ Reporters at the December 18, 1924 sale counted a total of 150 people in attendance. Due to the terrible weather, and the tracts listed A. F. Hinton stated “Colonel E. Walters of Skedee, auctioneer extraordinary, may be a persuasive enough talker to sell cross-word puzzles in a blind asylum, but all his eloquence and pleading gestures failed him today when he tried to get visiting oil men to enthuse over the shop-worn Osage tracts put up at auction.” The normally all day affair concluded in two hours. A. F. Hinton, “Osage Sale Breaks Records for Speed and Number of Tracts Passed,” *National Petroleum News* 16.52 (December 24, 1924), 30.

¹⁴⁸ Mineral leases remained in the possession of the developer for a period of “five years and as long thereafter as oil is found in paying quantities.” This allowed the Osages to derive royalty payments for a longer period without a disruption in development. J. George Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 22, 1917,” n.p., RG 75, Annual Narrative and Statistical Reports, NARA-DC; Wood, “Our Government’s Biggest Gambling Center at Pawhuska,” 34, 36-38; “Bidding is Less Spirited at Latest Osage Sale Than at Previous Ones,” 72; “Bidders at Osage Sale Show Secretary Some Spirited Bidding,” 75-76; Lawrence E. Smith, “Osage ‘Mill End’ Sale Not a Success,” *National Petroleum News* 16.27 (July 2, 1924), 39.

¹⁴⁹ Hinton, “Osage Sale Brings Less Than Million,” 40.

which meant developers had to “dicker with the allottee individually for every [drilling] location.”¹⁵⁰ These individual negotiations protected tribal members and their property, livestock, and crops, but oilmen tried to avoid any arrangement that would delay drilling and, therefore, future profits.¹⁵¹ Ultimately, the 1925 sale resulted in a significantly lower income for the Osages. One article even reasoned, “Like the old gray mare so dear to the soldier’s heart, the Osage sale ain’t what it used to be. No sir, not by several million dollars. Not only that, but the Osage sale will never be what it used to be unless and until another field like Burbank is opened up somewhere within the confines of the Osage’s inland empire.”¹⁵² The subsequent sales rebounded to some degree, but the Osages had developed significant sums of money from the lease sales, the oil and gas royalties, their federally held trust, in addition to their established leasing economy and other economic ventures. As a tribe, they succeeded at increasing their wealthy status and lived lives they chose for themselves.¹⁵³

The oil and gas lease sales enticed many witnesses to see the booming oil town of Pawhuska, the strange and “exotic” Osages, and perhaps cast their lots among the oilmen and workers. The Osage oil boom occurred in tandem with oil booms throughout Oklahoma,

¹⁵⁰ Wood, “Pawhuska, Okla., America’s Monte Carlo,” 39.

¹⁵¹ The regulations on for drilling on homestead claims were quite restrictive. To drill the well, oil developers had to pay owners \$100 per year for drilling in “cultivable lands” and \$55 for areas where development could not occur. Additionally, they had to pay for the land pipelines crossed and where oil tanks were constructed. Lastly, they had to pay for any “damages to the land or crops thereon” whether that occurred during construction or the result of an oil spill, fire, or “sump-holes constructed for impounding salt water and refuse oil.” Superintendent Wright believed that even though “squabbles have resulted” the oil men “are very liberal in making settlement for damages, both actual and alleged” so they could retain their development rights in the oil rich lands. Although some oilmen believed that “any absurd story from an Indian will be considered by the Department, but oilmen are on the blacklist.” J. George Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 27, 1920,” n.p., RG75, Annual Narrative and Statistical Reports, NARA-DC; *Oil City Derrick*, April 2, 1906; Wood, “Our Government’s Biggest Gambling Center at Pawhuska,” 36; Wood, “Pawhuska, Okla., America’s Monte Carlo,” 39; Chap. 120, March 3, 1921, 41 Stat. L. 1249 in Barney, 72; J. George Wright, “Annual Report of the Osage Indian Agency, June 30, 1922,” n.p., RG 75, Annual Narrative and Statistical Reports, NARA-DC; J. George Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, July 29, 1921,” n.p., RG 75, Annual Narrative and Statistical Reports, NARA-DC.

¹⁵² Hinton, “Osage Sale Brings Less Than Million,” 40.

¹⁵³ Gambrell, “Gypsy Completes 4,000 Barrel Well As Osage Sale Progresses,” 25.

Pennsylvania, Kansas, Texas, and later the Northern Plains. The Osage oil fields yielded great rewards for those who found oil, but being located on an Indian Reservation gave oil developers headaches due to the many and seemingly ever-expanding regulations issued by the Osage Nation, sanctioned by the Secretary of Interior, and enforced by Osage Agency employees. Some oil developers simply chose not to participate in the Osage oil boom due to the restrictions on their lands. They felt if they could deal directly with Native landholders, without the interference of the tribal or federal government, or with white landowners, they could “make much better bargains than in the Osage, and most people do”¹⁵⁴ and not submit to being “docile and halter-broke” at each sale.¹⁵⁵ Nevertheless, many still were “crazy to get an Osage lease and will go to the limit” of the acreage allowed. Oilmen disliked the confusing maze of changing rules that they did not face when dealing with the Five Tribes. They considered the Cherokee, Creek, Choctaw, Seminole, and Chickasaw as having “ordinary human rules” since they held mineral rights individually. By maintaining control of their leasing economy, Osages allowed individuals to enter their relational web under circumstances that would ultimately benefit tribal members, but some oil men frustrated by what they deemed onerous rules opted not to participate.¹⁵⁶

The Osage Nation pushed to open their oil fields for further development so they could capitalize on oil development more than the Foster Lease had allowed them to do. However, oil men viewed the Fosters as obtaining something they would never be able to have – unrestricted access to Osage lands. This could not be further from the truth, but many believed to have been involved in an industry that did not benefit them, and if they had their choice, they would leave,

¹⁵⁴ Wood, “Our Government’s Biggest Gambling Center at Pawhuska,” 36.

¹⁵⁵ Wood, “Pawhuska, Okla., America’s Monte Carlo,” 39-40

¹⁵⁶ Wood, “Our Government’s Biggest Gambling Center at Pawhuska,” 36; Mount, 95.

but due to “previous investments,” they are forced “to stay with the game, no matter how irksome.” The “never-ending roll of red tape and technical details that unwind from Washington” made some believe the demands of the Osages would never stop. One reporter even retorted, “some dry year a new rule will be made that the oil men will have to drill water wells on every tract and give the Osages 20 per cent of it.”¹⁵⁷ While a gross mischaracterization, this suggestion demonstrates the Osage Nation's power over their reservation and resources during this period. Oil developers and reporters continually referenced the Secretary of Interior or the Office of Indian Affairs as the root of regulations, but they simply served as the enforcers of the Osage Tribal Council's decisions, particularly in the area of approving or disapproving leases.¹⁵⁸

J. George Wright became the Osage Agency's Superintendent in 1915 and stayed until 1931, making him the longest-serving federal employee working directly with the Osages. He provided much-needed consistency throughout the oil boom period and dealt harshly with oil developers who tried to circumnavigate the Tribal Council or the Secretary of the Interior. Prior to Wright's arrival, some oil developers and speculators tried to secure mineral leases with the Osages themselves rather than through the proper channels.¹⁵⁹ Tribal members refused these proposed leases, but Superintendent Carroll reported that these potential lessees remained undeterred as they traveled with their “notaries Public, go speeding from camp to camp at a pace

¹⁵⁷ Wood, “Our Government's Biggest Gambling Center at Pawhuska,” 38.

¹⁵⁸ One area that the federal government did have almost unanimous say was if a lease had been purchased for less than a United States Geological Survey geologist deemed it to be valued. Each tract offered at auction had been appraised by the “government geologist” and he reviewed bids and leases to ensure the Osage Nation received a fair price for their land. If a lot sold for less than its value, then the lease would be cancelled and resold. “Two Tracts Break Previous Records for Osage County Acreage,” 25; “Osage Indians Six Million Dollars Richer By Twentieth Lease Sale,” 21; Hinton, “Osage Sale Breaks Records for Speed and Number of Tracts Passed,” 540; Wood, “Pawhuska, Okla., America's Monte Carlo,” 39-40; *Handbook of Federal Indian Law*, 1047, 59.

¹⁵⁹ Carroll, “Annual Report of Osage School and Agency, 1914,” n.p.

which makes the Paul Revere episode appear like a nonchalant stroll.”¹⁶⁰ J. George Wright arrived on the Osage Reservation with significant experience in the Indian Service, having worked as a clerk and then Agent among at the Rosebud Sioux Agency and as Commissioner among the “Five Civilized Tribes.” Wright worked directly with the Tribal Council and relied on his previous experience to help implement the many rules and requirements the Tribal Council voted to enact. The Tribal Council quickly adopted Wright into their external relational web so they could work with a new ally to create a more profitable oil and gas leasing system.¹⁶¹

Even though the Osages had problems with past agents and government employees, tribal leaders, such as Chief Fred Lookout, recognized Wright tried to do everything he could so his records and actions demonstrated his impartiality.¹⁶² Outsiders observers commented that Wright acted as “the most capable Indian agent in the United States,”¹⁶³ and he served as the “‘Watchdog’ of the Osage.”¹⁶⁴ As a “strict disciplinarian and literal interpreter of all Osage regulations,” Wright took over thirty minutes to explain the rules of bidding and leasing on Osage lands at each oil and gas lease auction. At least one time, Superintendent Wright derided oil operators “that he is getting mighty tired of trying to overlook careless operations and to suggest that more fines, reprimands and penalties will be added without warning.” While Wright may have been the most public face at oil auctions and among the oil developers, he did not operate the Agency alone. He took his directions from the Tribal Council and the Secretary of Interior and surrounded himself with a team of oil inspectors and attorneys to ensure the Osages

¹⁶⁰ Carroll, “Annual Report of the Osage Indian School, August 25, 1913,” n.p.

¹⁶¹ “Supt. Wright Has Supervised Paying of Millions to Osages,” *The American Indian*, Vol. 1.7 (April 1927), 4.

¹⁶² “Handles \$400,000 Oil Funds for Indian Tribes,” 52.

¹⁶³ Wood, “Our Government’s Biggest Gambling Center at Pawhuska,” 38.

¹⁶⁴ Wood, “Pawhuska, Okla., America’s Monte Carlo,” 39-40.

land and resources remained secure and oil and gas operators abided by the rules set forth by the Tribal Council.¹⁶⁵

Boomtowns and rapid population increases soon became an inevitable result of the rapid oil development within the Osage Nation. Most towns on the reservation consisted of a couple of general stores, a hotel, a blacksmith, and a livery and feed stable in 1902. Pawhuska had more shops and a larger population due to the Agency's presence, but they also experienced the effects of the oil boom. By 1917, Pawhuska featured elements of a modern city with "paved streets, substantial buildings, water, sewer and lighting systems" for their population of 5,000.¹⁶⁶ Only four years later, the population swelled to 10,000. Boomtowns, such as Wynona, Pershing, Skiatook, and Nelagony, grew rapidly and soon boasted sizable populations of nearly 1,500 white oilmen.¹⁶⁷ While Superintendent Hugh Pitzer stated he had little trouble "maintaining order" in the boomtowns in 1911, as the oil industry only continued to expand and the Osages became visibly wealthy, it became readily apparent the boomtowns among the Osage were no different from those that started during other mineral rushes throughout America's history.¹⁶⁸

The combination of hard labor jobs, few women or families, the rise of a vice economy, and the

¹⁶⁵ Chatfield, "Pawhuska Shopping Notes," 76; Hugh Pitzer, "Annual Report of the Osage Indian School, 1911," RG 75, Annual Narrative and Statistical Reports, NARA-DC, n.p.; Wright, "Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 27, 1920," n.p.; Wright, "Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 14, 1919," n.p.

¹⁶⁶ Wright, "Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 22, 1917," n.p.

¹⁶⁷ For the original five town sites laid out in the Osage Allotment Act (Pawhuska, Fairfax, Foraker, Hominy, and Bigheart), the mineral rights stayed with the land. Therefore, anyone who purchased a lot within the city limits, also held the individual mineral rights rather than the Osage Nation. Pawhuska had operating gas wells within the city limits, and Bigheart featured productive oil wells. The remainder of the original town sites did not have oil or gas "in sufficient quantities to commercialize." Wright, "Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, July 29, 1921," n.p.; Wright, "Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 27, 1920," n.p.; Mitscher, "Report of Osage Agency, Pawhuska, Oklahoma, August 21, 1902," 294; Wright, "Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 14, 1919," n.p.

¹⁶⁸ For additional information concerning criminal activity among the Osages during the height of the oil boom, see Chapter 6: The Question of Terror." Pitzer, "Annual Report of the Osage Indian School, 1911," n.p.; Albert Raymond Parker, "Life and Labor in the Mid-Continent Oil Fields, 1859-1945," Ph.D. Diss. (Norman: University of Oklahoma, 1951), 31-33, 41, 44, 53-56; Harmon, 183.

fact that Native Americans displayed their wealth through lifestyles of convenience created a culture of greed, jealousy, and eventually crime, especially after the “oil wells played out, many a splurge had to leave town ‘scratching a broke backside’ – as they say in forthright Oklahoman.”¹⁶⁹

Osage leaders understood the leasing economy, and the resulting workers that came to the area needed to be carefully regulated, so the arrangement continued to benefit tribal members. Tribal Council members oversaw the day-to-day dealings among the Osages and activities on the reservation, but soon the task of recommending oil and gas leases, surveying the state of drilling sites, and the claims of damages to properties became an all-consuming task. To streamline these affairs, the Tribal Council formed the Osage Mineral Committee to oversee the various tasks associated with the oil industry. Committee members worked diligently to secure an extended trust period for their mineral rights and spent considerable time reviewing and recommending leases for approval by the Secretary of the Interior. They also ensured that the oil money, both from lease payments and oil and gas royalties, paid the tribe’s operating expenses and then distributed properly to each tribal member. They also ensured at least one tribal member attended the lease sales in an official capacity so the Committee could retain their own accurate records of the events. Rather than stepping aside and allowing Superintendent Wright and other federal employees to monitor and supervise oil and gas leases, members of the Osage Mineral Committee remained highly active and involved with the process. Tribal members may have been divided about if mineral leasing should have begun, but once it started, the Tribal Council diligently monitored and continually drafted proposals to improve the process. Had they not had considerable experience negotiating with various governments and individuals or

¹⁶⁹ “Oil-Rich Indians,” in *A Treasury of Western Folklore*, B. A. Botkin, ed. (New York: Crown Publishers, Inc., 1951), 278.

developed their own leasing economy in the 1880s, the Osage Nation would not have been in a position where they could exert control over a fledgling industry.¹⁷⁰

Tribal members held widely different opinions about the oil industry flocking to their lands. One unnamed Osage man observed employees of the Kay County Gas Company digging a well “like tomorrow they ain’t gonna be no more worl’.”¹⁷¹ Some expressed curiosity and wondered if the oilmen would even produce anything despite their considerable efforts to obtain leases. Others welcomed the new development and new people to the Osage Nation and expressed they would embrace the new economy and utilize the money oil and gas brought, but they would not “give up [the] blanket” and forget their culture.¹⁷² Archie Mason, Jr. stated that the Osages’ annual I’n-Lon-Schka dances helped tribal members not just remain connected but also helped participants “both mentally and physically to take care of life’s problems.”¹⁷³ Still others remained skeptical and wary of the rapid change by avoiding the drilling sites and the leases. Herman Lookout’s father believed the Osages would “lose our ways. Because of the richness it’s going to hurt us more than it’s going to help us...”¹⁷⁴ Some even went as far as leaving the Osage Reservation altogether, especially at the height of the oil boom. Regardless of the varying opinions about the oil and gas industry, the money derived from the new industry affected every tribal member in both beneficial and detrimental ways.¹⁷⁵

¹⁷⁰ Marion Cracraft, “The Fabulous Osage, Part II” in *The Landman* Vol. 12.11 (October, 1967), 26-27; Wright, “Annual Report of the Osage Indian Agency, June 30, 1922,” n.p.; Sells, “Report of the Commissioner of Indian Affairs, Washington, D.C., September 30, 1920,” 33; Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 15, 1916,” n.p.; Chap. 120, March 3, 1921, 41 Stat. L. 1249 in Barney, 73; “Osage Indians Six Million Dollars Richer By Twentieth Lease Sale,” 21; Callahan, 15.

¹⁷¹ Mathews, *Life and Death of an Oilman*, 116, 77.

¹⁷² Callahan, 20; “Chief’s Speech to Oil Men Says Likes ‘Em – But Prefers Their Money,” *The American Indian*, Vol. 1.3 (December 1926), 6.

¹⁷³ Wilson, “Chief Fred Lookout,” 50.

¹⁷⁴ Herman Lookout in Ball and Xavier.

¹⁷⁵ Carroll, “Annual Report of the Osage Indian School, August 25, 1913,” n.p.; Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 26, 1918,” n.p.

Due to the addition of oil and gas to the Osage Nation's leasing economy, wealth among the Osage continued to grow. Most studies equate the oil boom with the rise of the Osages' wealthy status, but this new industry just added to what the Osage Nation had already cultivated for themselves. Newspapers reported the Osages were the wealthiest Native Nation in the 1880s, but by the 1920s, the tribe rose to the claim the position as the wealthiest nation by per capita in the world. This statistic shocked many, especially those who read the Meriam Report in 1928 and its discussion of wealth among all Native groups in the United States. Meriam and his team found that in 1926, at the height of the Osage oil boom, 83.9% of Native peoples reported an individual income of less than \$200 annually. Only 2.2% of tribes reported more than \$500 of annual income: the Klamath Indian Tribe, with their significant timber reserves, earned \$1,523 per person, and the Osages who divided their wealth equally earned \$19,119 per person from their oil reserves.¹⁷⁶ Despite the Osages' immense wealth and the continual management and regulations, the Tribal Council provided for the industry, the Office of Indian Affairs continued to count oil and gas money as unearned income. This classification tried to assert that the Osages did not deserve the oil wells that “daily pour great wealth upon these Indians.”¹⁷⁷ The refusal to recognize the Osage Nation as capable of regulating their own affairs negates their long documented history of effective negotiations and relationship building as a means to protect their people and ensure their tribal sovereignty remained intact and respected as a nation.

As the Osages focused their attention on establishing a leasing economy in the 1880s, government employees and eastern reformers encouraged tribal members to work their own fields and earn their own living independent of the federal government. Although tribal members accomplished that very goal, many expressed frustration with the Osage Nation since

¹⁷⁶ Sherwood Ball in Ball and Xavier; Merriam, 451, 448, 433, 446.

¹⁷⁷ Sells, “Report of the Commissioner of Indian Affairs, Washington, D.C., September 30, 1920,” 41.

they did not conform to their idealized yeoman farmer vision of a self-sufficient Native group. Rather, the Osages reaped the rewards of their leasing economy and hired white men and women to work their land or perform domestic labor for the household.¹⁷⁸ This behavior became even more prevalent as the oil boom continued. While many bemoaned the fact that “there is naturally no incentive or inducement for them to make exertions in their own behalf or perform any manual labor,”¹⁷⁹ and that the “younger generation are imbued with the idea that the supply of money coming to them is practically inexhaustible” tribal citizens used their money to live in a manner of their choosing.¹⁸⁰ Even students who attended Indian boarding schools returned to the Osage Reservation wondering why they should work when they already “had too much money and did not have to.”¹⁸¹ Instead of eking out a living from farming the prairie and raising stock as the “Friends of the Indians” desired, many occupied themselves with visiting friends and family throughout the reservation, attending ceremonial and seasonal dances, viewing “moving picture shows,” and “many of them seek pleasure in travel” to a variety of American cities. These actions not only demonstrated the differing priorities of tribal members than those of the average American citizen, but it also emphasizes the commitment Osages had to maintaining their relational web with their families, friends, and fellow tribal members. Visiting family and attending dances remained a vital part of Osage life and culture for generations and provided a connection to one another in the face of great difficulties and dramatic change.¹⁸²

The Osage Nation continued to experience changes in their lifestyles as they willingly expanded their external relational web through the introduction of new economic ventures and

¹⁷⁸ Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 22, 1917,” n.p.

¹⁷⁹ Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 26, 1918,” n.p.

¹⁸⁰ Carroll, “Annual Report of the Osage Indian School, August 12, 1912,” n.p.

¹⁸¹ Pitzer, “Annual Report of the Osage Indian School, 1911,” n.p.

¹⁸² Carroll, “Annual Report of the Osage Indian School, August 25, 1913,” n.p.; Carroll, “Annual Report of Osage School and Agency, 1914,” n.p.; Ambler, 50.

new partnerships with government employees, traders, and oil developers. The initial introduction of oil development on the Osage Reservation did not include tribal leaders due to the many deals, negotiations, and partnerships made between the Foster brothers and Washington elites; however, Osage leaders learned from the initial blanket lease and ultimately negotiated a much more favorable agreement from a position of strength in 1915. Many historians and researchers tend to relate the story of the Osage oil boom as a happy accident since the land was deemed so worthless by the federal government they gave it to the Osage Nation, but this is simply untrue. The Osages and other Native Nations utilized oil for medicinal purposes for generations, they specifically selected their lands in Indian Territory and purchased them directly from the Cherokee Nation. When oil and gas became profitable, Osage leaders acted and ensured the blanket lease would eventually be overturned so their people could benefit financially from a new and fairer arrangement. The result of the Osage Nation expanding their relational web to include the new industry caused two competing realities: that tribal members could spend their money however they pleased to craft the lives they wanted; and outside parties, predominately white Americans, desperately tried to secure some of the Osages' money for their own purposes. The height of the oil boom among the Osages resulted in a peak in criminal activities. However, the Osage Nation utilized both their internal relational web and external relationships to form protective alliances and laws to support their people.

Chapter 6

The Question of Terror

“I went out to the oil-fields
 The other day;
 High were the derricks –
 Black the spray;
 But not blacker than the hearts of men –
 That black gold
 Which roared and flung with power there –
 It’s wealth untold.

(Anne Elizabeth Ford, “Black Gold”)¹⁸³

The Osage Nation successfully navigated incredible challenges from corrupt treaties, relocating to a new land, crafting an economy that utilized their natural resources, allotment, and the dismantling of their government, but the most enduring challenge came as others reacted to their wealth. Without their negotiation and diplomatic strategies, tribal leaders could not have overturned several detrimental legal maneuvers, let alone secure beneficial arrangements for their people through lease agreements with ranchers, farmers, and oilmen. By creating and investing in the leasing economy, the Osages received a steady income that quickly set them apart from their neighbors, both white and Native. The increase in the Osages’ collective wealth, especially during the oil boom, caused the Office of Indian Affairs and Eastern Reformers to take notice and soon excited the imagination of the American people. Government officials quickly tried to “protect” the Osages from their own voracious “spending sprees” by classifying all tribal members as “incompetent Indians.” Congress thought placing Native money in the hands of “respectable” white citizens would aid the Osages as they learned how to “properly” handle their affairs. Unsurprisingly, these seemingly well-intentioned actions, in fact, placed Osage money

¹⁸³ Anne Elizabeth Ford, “Black Gold,” *The American Indian*, Vol. 4.3 (December 1929), 5.

within reach of petty criminals and corrupt businessmen who stole Native money. Despite continued attacks against their people and their sovereignty, tribal leaders actively worked to protect their people throughout one of the most difficult periods of Osage history.

The Osage Nation had expanded their relational web to include those who signed leases and contracts with the tribe, but the federal government had forced leasing arrangements, such as the Foster's Blanket Lease, upon the Osages with less than desirable results. Tribal leaders worked diligently to fully control who gained entry to the tribe through leasing arrangements and regained that control in 1916 when the Foster Lease expired. These actions led to increased wealth which benefited the tribe, but as more non-Native people came to the Osage Nation, resentment grew towards wealthy tribal members. Many whites believed the oil money being received by a Native Nation should never have happened. Even the federal government refused to consider money derived from their leasing economy as "earned income." This created a situation where whites specifically targeted tribal members to gain access to their money. Some became guardians of "incompetent" Osages money and used their position to skim money from the accounts. Others provided alcohol to tribal members to induce them to sign wills, contracts, life insurance policies, and other legal documents for the benefit of white criminals. Still others resorted to violent acts, such as robbery, beatings, and murder, while the most insidious professed their love for individual Osages so they could marry into the family and tribe to freely access their spouse's money or receive their own headrights through inheritance. The sheer number of conspiracies to defraud the Osages resulted in the period between 1919 and 1923 being called the "Reign of Terror."¹⁸⁴

¹⁸⁴ Phil Kinsley, "Tragedy Trails Golden Rainbow of the Osages," *Chicago Daily Tribune*, February 3, 1926; Lamb, *Tragedies of the Osage Hills*, 117, 120-122, 150.

Grazing and agricultural leases made the Osages wealthy, but the income from oil leases and royalties catapulted the Osage Nation into the national news spotlight. The Osages became a spectacle – people to be both envied and hated. News outlets created and perpetuated an image of ignorant Indians spending their money on frivolous things, but that image quickly changed as the crime rate dramatically increased on the Osage Reservation, particularly after many tribal members died under mysterious circumstances. Don Whitehead, unfamiliar with the Osages' long history, described the era and the Nation as “children released in a vast new wonderland. But it was a wonderland that was to bring them misery, and even death.”¹⁸⁵ Newsmen co-opted the term “Reign of Terror” from the French Revolution simply to sell their papers, but soon the phrase became a part of the common lexicon of the day. Office of Indian Affairs employees even utilized the term in official reports. However, this term is problematic as it places Osages in a passive position and seemingly at the mercy of nefarious white individuals. Newspapers in the 1920s likely did not even consider the ramifications of objectifying Native peoples, but the language of objectification has permeated scholarly works concerning the Osages. While some monographs discuss the “Reign of Terror” in a thoughtful manner with copious contextualization, others focus their interest on the most painful part of Osage history simply because it provides a good story that many have not heard of prior. Still others pursue the story out of journalistic intentions to report a true crime narrative.¹⁸⁶ Without contextualization, the full story of the Osages' reliance on their relational web and their continual adaptation to

¹⁸⁵ Whitehead, 115.

¹⁸⁶ Some of the well-contextualized and researched studies relating to this period in Osage history can be found in the following: John Joseph Mathews, *The Osages: Children of the Middle Waters* (Norman: University of Oklahoma Press, 1961); Alexandra Harmon, *Rich Indians: Native People and the Problem of Wealth in American History* (Chapel Hill: University of North Carolina Press, 2010); Donald L. Fixico, *The Invasion of Indian Country in the Twentieth Century: American Capitalism and Tribal Natural Resources*, 2nd ed. (Boulder: University Press of Colorado, 2012).

changing circumstances to protect their people is lost. There is substantially more to the history of the Osage Nation than the gruesome events resulting from the avarice of white Americans.

Those who fully embrace the “The Reign of Terror” terminology and relate the Osages’ narrative as true crime do so in a sensationalized manner, much like the contemporary accounts from newsmen. Most focus exclusively on a series of murders perpetrated by William K. Hale and his schemes to obtain a portion of the Osages’ oil money. While this man’s actions can provide insight into corrupt guardians and the dangers of allowing intermarried whites to inherit tribal headrights, most studies do not examine these issues at length. Instead, they focus on Hale and the other men involved in the schemes while relegating the Osage people to the background as fearful victims.¹⁸⁷ This sensationalism purposely objectifies tribal members in a way that can cause further harm for descendants. The goal of this chapter is to place the Osage Nation at the heart of their own story. They should not be described as mere victims of criminals during the early 1920s; instead, tribal leaders actively worked to maintain their sovereignty and ensure the safety of tribal members. Individual Osages fought for their autonomy through the Osage Agency and the court systems. Relatives of deceased loved ones often filed suits in tribal and federal courts to protect their rights. The tragic events of the early 1920s caused fear in the Osage Nation, but tribal members never cowered – they defended their rights using every method possible.

¹⁸⁷ The most recent of these is the wildly inaccurate depiction of the Osages history found in a recent episode of a popular podcast. Lauren Vogelbaum, “On the Trail,” January 28, 2021 in *American Shadows*, produced by Grim & Mild, podcast, MP3 audio, 32:18, <https://megaphone.link/HSW7358289065>. David Grann, *Killers of the Flower Moon: The Osage Murders and the Birth of the FBI* (New York: Doubleday, 2017); Dennis McAuliffe, *The Deaths of Sybil Bolton: An American History* (New York: Times Books, 1994); Dennis McAuliffe, *Bloodland: A Family Story of Oil, Greed and Murder on the Osage Reservation* (San Francisco: Council Oak Books, 1999); Lawrence J. Hogan, *The Osage Indian Murders: The True Story of a Multiple Murder Plot to Acquire the Estates of Wealthy Osage Tribe Members* (Frederick, MD: Amlex, 1998).

The standard narrative of the “Reign of Terror” focuses not on the Osage Nation or even the murdered tribal members. Instead, accounts tend to focus their attention on “a little fella...completely without integrity” with “an owlsh face, stiff black hair, and small, alert eyes set in shaded hollows” – William K. Hale.¹⁸⁸ Hale had experience as a cattleman in Texas but soon came to the Osage Reservation to participate in their robust leasing economy.¹⁸⁹ He lived a meager existence by “scratching out a living by trading with the Indians,” but this trade quickly developed into theft and fraud. He started building his own herd through cattle rustling and succeeded in obtaining quick money by stealing cattle and butchering them for meat or selling the cattle back to the rightful owner.¹⁹⁰ Eventually, Hale acquired a sizable herd that he ran on 40,000 acres of leased grazing lands and 4,000 acres he owned outright. By the late 1910s and early 1920s, many people began calling him the “King of the Osage” since his middle name was King and he had become a wealthy individual who earned the trust of his neighbors by giving lavish gifts, such as cattle, new suits, and ponies for children. Hale witnessed the oil boom and the increasing bonus and royalty payments for the Osages, but he disapproved of tribal members having so much money when he worked his entire life for only a fraction of the profits from the Osages’ leasing economy. While many became guardians for “incompetent” Osages, Hale devised a plan to secure more money for himself.¹⁹¹

Hale decided the simplest solution to procuring Osage money was to marry into the tribe and then subsequently murder relatives of the spouses. This would force multiple headrights into the hands of the spouse, who would then be killed so he could inherit the headrights and a

¹⁸⁸ Mark Freeman in Ball and Sherwood; Grann, 28.

¹⁸⁹ Research Notes, Box 15, File 7, Ms 427, Fred Grove Papers.

¹⁹⁰ Don Whitehead, *The FBI Story: A Report to the People* (New York: Random House, 1956), 114.

¹⁹¹ Thomas B. White to M. E. Trapp, November 17, 1926 in Box 15, File 8, MS 427, Fred Grove Papers; Research Notes, Box 15, File 9, MS 427, Fred Grove Papers; Sherwood Ball in Ball and Sherwood.

portion of the Osages' wealth. To enact his plan and provide separation between himself and his schemes, Hale recruited his two nephews, Bryan and Ernest Burkhart, to marry Osage women. Once fully embedded in the tribe, the murders began, typically under suspicious circumstances. Hale's first victim was Anna Brown, who has been described in various unflattering terms due to her affinities for attending parties and drinking alcohol during Prohibition. One source described her as "a dissolute character and notorious." This characterization led many to ignore her disappearance, and others dismissed her murder as they thought she brought trouble upon herself due to her lifestyle.¹⁹² A cursory investigation was completed in 1921 at the time of Anna's death, but after a series of escalating murders and violence in 1923, tribal members and agency employees began to look more critically at the violent events.¹⁹³

Henry Roan, sometimes called Henry Roan Horse, died early in 1923 under suspicious circumstances.¹⁹⁴ Some claimed he had previously attempted suicide, but it quickly became known that someone had run his car off the road, killed him, and then "poured alcohol all over him." Investigators then discovered Roan had signed a \$25,000 life insurance policy with Hale listed as the sole beneficiary. A family member remembered Roan could not write or sign his own name, yet the insurance paperwork featured his full "signature." Despite the suspicious nature of the paperwork, Hale received the insurance money, which caused great concern among tribal members since neglecting one's family clearly went "against the ways of the Osage."¹⁹⁵

¹⁹² File No. I. C. #62-5033, Box 15, File 9, MS 427, Fred Grove Papers.

¹⁹³ Anna's sister was Mollie, who had married Hale's nephew, Ernest Burkhart. His intention was to kill Mollie's relatives so she would inherit their headrights and then Ernest could inherit all of the accumulated money upon her death. It has been theorized that Hale intended on killing his nephews so he could then inherit everything, but Hale never confirmed his true intentions. "Courts End Osage Indian 'Reign of Terror,'" *New York Times*, January 17, 1926; "Bullet Wound Tells how Woman Met her Death," *Pawhuska Daily Capital*, May 28, 1921; *Pawhuska Daily Capital*, July 23, 1921; "Coroner's Inquest," *Osage Chief*, June 3, 1921; T. F. Weiss report to Hoover, December 26, 1923, Box 96, File 21718-1923-175, RG 75, Central Classified Files, 1907-1939, Osage, NARA-DC (hereafter referred to as "Central Classified Files, NARA-DC").

¹⁹⁴ "Henry Roan Shot by Unknown Hand," *Osage Chief*, February 6, 1923.

¹⁹⁵ Mary Bigheart in Ball and Xavier.

Due to these circumstances, Roan's case contained the clearest evidence relating directly to Hale and his criminal associates and provided an avenue for legal proceedings to begin since his murder occurred on the Osage reservation.¹⁹⁶

After Roan's death, multiple mysterious deaths and suspected murders came to light. Anna Sanford, William Stepson (whose late wife married one of Hale's criminal friends), Anna Brown's mother, Lizzie Ne-Kah-Es-Sey, Charles Whitehorn, George Bigheart, and his lawyer W. W. Vaughn all were murdered by Hale's direction. In each case, he had been named the beneficiary in life insurance policies or simply funneled headrights closer to his grasp. The existing evidence does not show that Hale ever killed anyone directly. Instead, he hired known criminals as hitmen. He covered his tracks by killing anyone involved in the murders whom Hale deemed a threat or a liability, such as Curly Johnson, Asa Kirby, and Henry Grammer.¹⁹⁷

By far, the most dramatic of Hale's plans were the murders of W. E. "Bill" Smith, his Osage wife Reta, and their white domestic servant, Nettie Brookshire. Reta was the sister of Anna and Mollie, and when she passed away, Mollie's wealth increased exponentially. Reta and Bill had been concerned about the deaths among their friends and loved ones, so Bill started conducting an informal investigation. Hale approached Ace Kirby and asked if he would

¹⁹⁶ Grove, 139-140; *Tulsa Tribune*, July 5, 1926; "Indian Death Plot to Astound Nation, U.S. Official Says," *Washington Post*, January 9, 1926; T. F. Weiss report to Hoover, December 26, 1923, Box 96, File 21718-1923-175, RG 75, Central Classified Files, NARA-DC.

¹⁹⁷ The individuals listed here are known to have been associated with Hale, his nephews, or his criminal friends. Hale was not charged for all of these murders since the evidence in the Roan and Smith cases remained the strongest. It is not clear if his influence in suspicious deaths extended past these individuals. There certainly were many suspicious deaths during the early 1920s, but it is hard to believe only William Hale could have orchestrated all the unsolved murders during this era. For more information about each of these deaths and William Hale, see the complete FBI case files, Osage Indian Murders, Bufile Number: 62-5033, <https://vault.fbi.gov/Osage%20Indian%20Murders/Osage%20Indian%20Murders%20Part%201%20of%2065/view>. Research notes, Box 15, File 7, MS 427, Fred Grove Papers; *Fairfax Chief*, August 31, 1923; "Court Attempts to Learn Cause," *Pawhuska Daily Capital*, March 2, 1922; Fred Grove, "Oil and the Osage Murders," 138-139; "Find Bodies of Two Murder Victims," *Pawhuska Daily Capital*, May 28, 1921; Ball and Xavier; *Pawhuska Daily Capital*, August 24, 1921; "The 'Black Curse' of the Osages," *The Literary Digest*, April 3, 1926; Research Notes, Box 15, File 9, Ms 427, Fred Grove Papers; Whitehead, 113; "Henry Grammer, Dead 60 Years Remembered Vividly in Osage," *Fairfax Chief*, December 1983.

procure around five gallons of nitroglycerin for the sole purpose of planting a bomb under the Smith's Fairfax home. Kirby agreed, and on March 10, 1923, the bomb was placed in the "basement garage" of the house, where it obliterated the stately home, pricey furnishings, and killed Rita and Nellie instantly. As officials raced Bill to the hospital where he died four days later, neighbors took note of the damage the blast caused to their own property: broken windows and shrapnel embedded in exterior walls. Due to the highly public nature of the bombing, Hale made it known he would attend the Texas Fat Cattle Show to secure plausible deniability as to his involvement. Hale hoped the deaths of Bill and Reta would lead to Mollie inheriting \$150,000 but after two years in probate court, Commissioner Burke validated their existing will, which divided their assets between Bill's father, Thomas Smith, and Reta's half-sister, Grace Bigheart.¹⁹⁸

At this point in what has become the standard narrative, the Bureau of Investigation officials, particularly one former Texas Ranger named Tom White, entered the Osage Reservation and commenced a daring undercover investigation, eventually rooting out Hale and his conspirators and leaving as heroes. Some even claim the Osage murder cases created the modern FBI, but the problem with this narrative is it further reduces the Osages to character actors playing the part of scared children while the "Great Father" sent his best and brightest to save the "poor Indian." The "white savior" rendition of events is unacceptable since it negates the efforts the Tribal Council made in trying to protect their people. After the deaths of Anna

¹⁹⁸ Reta and Bill's will remained in probate for two years due to Bill's daughter from a previous marriage claiming the wording of the will invalidated itself and as a result she was entitled to a share of the fortune. Charles Burke to Secretary of Interior, March 11, 1925, Box 925, File 38011-1923-351, RG 75, Central Classified Files, NARA-DC; Fred Grove, "Oil and the Osage Murders," in *Twin Territories Times: The Way It Was in Old Oklahoma*, Edward A. Shaw, ed. (Oklahoma City: Interior Territory Posse of Oklahoma Westerners, 1982), 138, 140; "Trouble Comes to the Best of Families and Towns," *Osage Chief*, March 16, 1923; File No. I. C. #62-5033, Box 15, File 9, Ms 427, Fred Grove Papers; Ball and Xavier; Research Notes, Box 15, File 7, Ms 427, Fred Grove Papers; Whitehead, 116; Editorial from the *Osage Chief*, March 30, 1923; Frank S. Smith Report, April 3, 1925, Box 96, RG 75, Central Classified Files, NARA-DC.

Brown and Charles Whitehorn in 1921, the Tribal Council discussed what they should do since doctors determined both cases to be murder by an unknown individual. They adopted a resolution that allowed \$2,500 of their funds to be set aside as a reward for information that led to an arrest and conviction of the perpetrators. They also entreated the local probate court to allow the administrators of both parties to hire detectives. Despite these measures, no leads emerged to provide substantive information about the cases.¹⁹⁹

Immediately after the explosion of the Smith's home, Fairfax officials held an inquest, and two days later, on March 12th, the Tribal Council met where they discussed the escalating violence. They had conversations among tribal members, the families of the deceased, and town officials both in Pawhuska and in Fairfax. Local city leaders also desired to find the guilty parties as their citizens were alarmed at the boldness of a fatal bombing in their ordinarily quiet and rural town. On March 20th, the Tribal Council sent a copy of Resolution No. 22 to the Secretary of Interior. They laid out the brief facts of the crimes as they understood them and requested support from the Department of Justice to aid in the "preservation of the lives and property of members of the tribe [and the] prompt and strenuous action be taken to capture and punish the criminals." The Council offered a \$5,000 reward for information leading to the successful conviction of anyone who had murdered an Osage tribal member. Additionally, they set aside an undetermined amount of money to fund an investigation and subsequent trial, and they asked for an additional "appropriation from Congress of Osage tribal funds" to support the criminal investigation.²⁰⁰

¹⁹⁹ J. George Wright to Commissioner of Indian Affairs, March 20, 1923, File 21718-1923-175, Box 96, Central Classified Files, NARA-DC.

²⁰⁰ Ibid; L. R. Heflin to J. George Wright, March 13, 1923, Ibid; Osage Tribal Council, "Resolution No. 22," March 20, 1923, Ibid.

Tribal leaders took an active role in seeking justice for the murder victims, but they recognized they needed support to end the violence. They utilized their relational web, particularly with local attorneys and the Secretary of Interior, to obtain the resources they needed. They had hired local detectives and handled the situation themselves, but the detectives quit stating they were “unable to secure the guilty party.” It became evident that a “power ring that controls crime in the county” endangered the safety of the Osage Nation, which encouraged tribal leaders to call upon the support of their allies. As a result of the persistent requests from the Osage Nation, Superintendent Wright, Commissioner Burke, and Secretary Work, J. Edgar Hoover responded with an affirmation that “the Bureau is ready and willing to exert every possible effort” to solve the case. The Osages’ established relational web greatly benefitted the Nation during this dangerous time by allowing them greater access to uncorrupted criminal investigators. Their internal relationships and external allies continued to support them as they waited on the verdicts in multiple trials.²⁰¹

The detectives of the Bureau of Investigation collected enough evidence and witness statements to bring Hale and both Ernest and Bryan Burkhart to trial, where the Tribal Council and tribal members alike paid keen attention to the unfolding courtroom drama. Tribal Council members petitioned to have one of their most trusted attorneys, T. J. Leahy, join the prosecution since he had successfully defended their rights in the past. Throughout the investigation and the trials, the tribe contributed significant monetary resources. Just before the first trial began, the Tribal Council asked Congress to approve the release of an additional \$20,000 from their

²⁰¹ Leahy, Macdonald, Files & Gray to the Secretary of Interior, July 19, 1923, *Ibid*; J. E. Hoover to Charles H. Burke, December 13, 1924, *Ibid*.

Treasury funds to support impending trial expenses. Despite this continued involvement, the court proceedings did not go smoothly.²⁰²

Even though many knew Hale had been responsible, the question of state or federal jurisdiction undid the first trial. The Federal District Court ruled they did not have jurisdiction over the case because the murder of Henry Roan, the main case being pursued in court, had taken place on “surplus” land instead of a homestead allotment. This decision did not have sound legal backing and was quickly overturned by the Supreme Court. The second trial ended in a mistrial due to a hung jury. In order to avoid contamination and further attempts at bribing jury members, the third trial took place in Oklahoma City in the Federal District Court. To the excitement of those in the Osage Nation, both Hale and John Ramsey, who murdered Henry Roan, were convicted and sentenced to life in prison, but Hale appealed and successfully reversed both convictions on the grounds that he had been tried in the wrong district court.²⁰³

At this point, many observers around the country could not believe the trial of the murders had not been an open and shut case. The Society of Oklahoma Indians, operated by Sylvester Soldani, an Osage tribal member, wrote strongly worded letters to Commissioner Burke to ensure a guilty verdict for “the Indian Killer Hale...the most crafty, cruel and sagacious criminal this nation has ever known.” J. M. Humphreys, the Tribal Attorney, expressed concern that the delays and multiple trials had started to “cause considerable friction on the part of the Agents of the Department of Justice.” He argued they had done well to solve the mystery and determine Hale was the “so called ‘Master Mind,’” but if the agents refused to testify due to the

²⁰² Osage Tribal Council, Resolution, January 19, 1926, *Ibid.*; Osage Tribal Council, *Osage Indians Semi-Centennial Celebration*.

²⁰³ For more information about the Bureau of Investigation’s involvement, see Whitehead and Grann. “A Murder Terror Campaign,” *The Manchester Guardian*, January 7, 1926; File I. C. #62-5033, Ms 427, Fred Grove Papers; *United States v. Ramsey*, 271 U.S. 467 (1926); *Guthrie Leader*, March 1, 1926.

increasing delays, the Osage Nation would never be able to hold Hale responsible. Even strangers to the Osages stepped in and wrote letters of support so “that such atrocities should be discontinued.” Annie D. Johnson, a particularly bold woman from Binghamton, asked Commissioner Burke to “use your influence of office and personal privilege” to support the Osage Nation as they continued to work through the court system.²⁰⁴

The demonstrated support for the Osages might have bolstered their spirits and further enforced their relational web, but public opinion cannot determine the outcome of any trial. Tribal members likely were unsure of how the fourth trial would end, but fortunately, it proved to be the last. Instead of being tried together, as had been done in the previous trials, Hale and Ramsey requested to be tried separately. At each of their trials, the juries returned a guilty verdict, and the judge sentenced them to life in prison. Bryan Burkhart received immunity for information concerning others involved in Hale’s schemes, but Ernest Burkhart, Mollie’s husband, confessed to his part, and a judge sentenced him to life in prison. Even at this moment, the Osages and their allies remained involved. At the Fourth Annual Convention of the Society of Oklahoma Indians, a resolution passed requesting the Governor of Oklahoma issue “executive clemency” for Ernest Burkhart because the testimony he provided ensured the worst offenders received guilty verdicts. The Governor disregarded this controversial proposal, and by 1927 all the criminals involved in the murder plot against Anna, Mollie, and Reta’s family had either died or resided in prisons located out of state.²⁰⁵

²⁰⁴ S. J. Soldani to Charles Burke, April 16, 1928, File 21718-1923-175, Box 96, Central Classified Files, NARA-DC; J. M. Humphreys to the Commissioner of Indian Affairs, June 16, 1926, *Ibid*; Annie D. Johnson to Commissioner of Indian Affairs, March 11, 1926, *Ibid*.

²⁰⁵ “Important Resolutions Passed at the Indian Convention,” *The American Indian*, Vol 1. 9 (June 1927), 2; Research Notes, Box 15, File 7, RS 427, Fred Grove Papers.

Most assume the “Reign of Terror” concluded once Hale arrived at the Leavenworth prison, leading the Osages to no longer fear criminal attacks against their people. Tribal members felt relieved after the final trial, but they still had to contend with frequently unflattering opinions of wealthy Indians. The Osages recognized the dramatic difference money had on their community, but they remained levelheaded in their expectations, particularly regarding future generations. Bacon Rind stated the younger generation had to “prepare themselves for the future by obtaining a good education in order that they might compete with the white man in the business world.”²⁰⁶ He understood their good fortune came directly from tribal leaders cultivating their leasing economy. In order to ensure the continued success of the Osage Nation, the next generation needed to continue to adapt to changes in the western economy. This measured response came in complete contradiction to what people said, wrote, and believed about the Osages. Many non-Natives watched in fascination, especially at payment days at the agency. Others viewed them as an impediment to progress due to their “laziness,” while many shook their heads in disapproval when they heard reports of tribal members’ extravagant tastes, ignorance, and immoral activities, namely imbibing in alcohol. Money aided Osages to live autonomously, and in a fashion they chose for themselves, but it also attracted the attention of many unscrupulous individuals who felt as though they should be the ones receiving the mineral wealth instead of the “undeserving Indian.”²⁰⁷

²⁰⁶ “Chief Bacon Rind Nationally Known,” *The American Indian*, Vol 1.1 (October 1926), 5.

²⁰⁷ Technically Hale, Ramsey, and Burkhart all received parole in 1947, 1948, and 1959 respectively for good behavior. Ernest Burkhart later received a pardon in 1966. “‘Reign of terror’ Kills Osage Family,” *Tulsa World*, November 26, 2006; “White King Paroled in Old Indian Killing,” *New York Times*, August 3, 1947. Glasscock, 271; Hicks, 8-9; “Payment Day in Fairfax,” Story idea notebook, circa 1948, Box 15, File 7, MS 427, Fred Grove Papers; Parker, 45; A. F. Hinton, “Results of Osage Sale Make Prospects Bright for Mid-Continent,” *National Petroleum News* 16.13 (March 26, 1924), 35; Wood, “Pawhuska, Okla., America’s Monte Carlo,” 40.



Figure 6.1: *Lo! The Poor Indian Caricature*, Vance, Parsloe & Co. Lithographers, New York, 1875. Though this image is from the nineteenth century, it is indicative of the type of caricature Native Americas were frequently reduced to – ignorant, hapless, and typically intoxicated.

After the turn of the twentieth century, news reporters frequently described the Osages as “Lo! the poor Indian” or “Poor Lo.” These seemingly contrary expressions became popular yet dismissive of the Osages’ well-developed leasing economy. This phrase originated from Alexander Pope’s “Essay on Man” and a particular stanza stating, “Lo! the poor Indian, whose untutor’d mind/ Sees God in clouds, or hears him in the wind...”²⁰⁸ While Pope reduces Native peoples to a stereotypical Indian who communes with nature and is ignorant of the western world, he questions if this is not the attitude

Europeans should adopt. However, when people adopted the term in the 1910s and 20s, it became a

tongue-in-cheek description of a wealthy Native Nation who, as many believed, could not possibly understand how to utilize their money for their good. At first, the term was used as a way to demonstrate how far the Osages had moved away from the depiction of a poor and destitute population. People described the Osages as “Lo! the Rich Indian” and marveled at their good fortune. Some even saw their wealth as further evidence that the American Indian should become citizens of the United States. As the crime and conspiracies became more evident at the height of the oil boom, people continued to refer to the Osages as “Lo,” but more often than not, it contained a tone of sympathy or a longing for that ubiquitous notion of a simpler past.

²⁰⁸ Alexander Pope, *An Essay on Man, in Four Epistles*, Epistle 1, st. 99-100.

Regardless of the underlying connotations, the terminology of reporters and casual observers frequently reduced tribal members to a lifeless caricature of themselves.²⁰⁹

The caricature of “Poor Lo” continued to plague the Osages while many began to view them as nothing more than greedy and “unfairly” holding oil-rich lands. Oilmen perpetuated this view by reporting the Osage Reservation had become “an Indian paradise” where anyone wanting to operate on the land had to “pay tribute to the allottee and conform to his idea of comfort and profit.”²¹⁰ Even though tribal leaders had every right to govern their lands and carefully monitor production, oil developers grew frustrated that they had to continually surrender their hard-earned money “to the fat and prosperous Osages.” One reporter stated the Osages could not be satisfied with anything the oil developers did. Instead, they had been “pampered so much” tribal members would “continually [run] to the agency to complain and to ask for more money.”²¹¹ At the March 1924 sale, the Osage Council rejected a bid from Charles B. Peters of \$37,000 for a 160-acre tract since their estimates and calculations found the land more valuable. Oilmen stood in disbelief that the Osages had “their heads full of millions” and refused a generous offer.²¹² Osage leaders had developed clear strategies to provide a stable income for their people. To accomplish this, tribal members determined ways to cultivate money that fit into their society and communities while combating racist ideals from the American government and their non-Native neighbors. The fact that Osages encouraged oil producers to come to the reservation to “write check for big lot,” and “make Osages more money,” as one

²⁰⁹ “Bidding is Less Spirited at Latest Osage Sale Than At Previous Ones,” 72; “Why is an Indian Called Lo?” *The American Indian* Vol 2.12 (September 1928), 5; Hinton, “Osage Sale Brings in Two Millions as Many Tracts are Passed,” 21; “By the Way,” *Outlook*, August 9, 1916; Edwin E. Slosson, “Lo the Rich Indian,” *The Independent Magazine*, September 18, 1920, 337; William G. Shepherd, “Lo, The Rich Indian!” *Harper’s Monthly Magazine*, November 1920; Dora Lewis Gaines, “Lo,” *The Poor Indian*, n.d.

²¹⁰ “Osage Indians Show Their Appreciation,” 58.

²¹¹ Wood, “Pawhuska, Okla., America’s Monte Carlo,” 39.

²¹² Hinton, “Osage Sale Brings Fourteen Millions,” 24-25.

reporter stated, demonstrates the tribe succeeded in reaching their goal rather than signaling their greed.²¹³

Those who associated the Osages with greed also thought tribal members were prone to “idleness and a carefree life” since they did not have to work for their daily income.²¹⁴

Americans idealized the Puritan work ethic and expected Native peoples to do the same, especially if they were to be successfully assimilated in the eyes of “Eastern Reformers” or the federal government. As one early historian believed, the Osages had “been cradled in the lap of luxury,” which resulted in tribal members feeling “proud of his idleness.”²¹⁵ While tribal members seemed unconcerned about the “no hurry” lifestyle they had created, white Americans expressed great concern and tried to determine where their assimilation efforts went wrong and how they could implement new policies to further regulate Osage life and lifestyles.²¹⁶

Lewis Meriam suggested the government employ a social worker who had training in “recreation and community.” He remarked the Osages had “little but leisure; their problem is what to do with it,” which caused great disapproval among whites. Non-Natives viewed their activities of feasting, partying, and traveling as “bad social conditions which threaten to engulf the whole tribe.”²¹⁷ While some hoped oil prices would drop or the oil fields on the Osage Reservation would play themselves out so the Osages would have to earn their “own way” in the world, others thought the Osage Nation’s actions were completely reasonable.²¹⁸ George Vaux asked, “Can we blame the Osage if he does not desire to work? The fact is he is as closest to

²¹³ “Chiefs Speech to Oil Men Says Likes ‘Em – But Prefers Their Money,” *The American Indians*, Vol. 1.3 (December 1926), 6.

²¹⁴ Hicks, 8.

²¹⁵ Boutwell, 113.

²¹⁶ “The Young Indian,” Story Idea notebook, circa 1948, Box 15, File 7, MS 427, Fred Grove Papers; “Payment Day in Fairfax,” Story Idea notebook, circa 1948, Ibid; Lindquist, 65.

²¹⁷ Meriam, 137.

²¹⁸ Ambler, 50.

Anglo-Saxon characteristics in that connection as most of the rest of us are...” Osages utilized their oil money, much as they had with the money they earned from grazing and agricultural leases, to live lives of convenience and enjoyment. The only difference between the 1890s and the 1910s and 20s was the soaring amounts of money at their disposal.²¹⁹

The most frequent depiction of Osage wealth during the oil boom came in the form of a wild 1920s style party, emphasizing frivolity and illegal liquor. Yes, some tribal members engaged in this style of partying, but this is a vastly exaggerated rendition of events. Even a recent ballet featuring a sweeping history of the Osages and primarily Osage performers included a number entitled “Pawhuska Oil,” mainly consisting of Charleston dance steps as if the performers “embarked on a flamboyant, all-stops-out party.” Such parties and alcohol may have tempted the younger generation of Osages, but most tribal members spent their time and money on activities that conformed to or enhanced their cultural norms.²²⁰ One popular pastime featured feasting and entertaining friends and family, which had been culturally significant for generations, but recently enhanced by their extra income. George Vaux, Jr. attended an Osage feast that featured “an enclosed pavilion with nice mosquito netting around it, with tables down the center and seats for the more aristocratic persons to occupy, and then some other booth where you could sit on the ground and dip out of the common dish and eat the jerked beef which had been dried and smoked in the sun the day before.” Even though Osage feasts featured the same foods and activities, their additional wealth allowed for more food and more comfortable accommodations.²²¹

²¹⁹ Vaux, 72.

²²⁰ Smith, *Wahzhazhe*; Smith, *Big Bluestem*, 190; Meriam, 607.

²²¹ Vaux, 72-73.

Despite using their money in ways they chose and enjoyed, non-natives viewed tribal members' actions and believed they were “going on about as stupendous a joy ride as you can find between the Atlantic and the Pacific [sic].”²²² Others focused on the activities of the younger generations and claimed their continual partying brought nothing but “disease, immorality, human parasites and an extravagance which was appalling.”²²³ According to some, the “demoralizing influence of riches” resulted in “75 per cent of the tribe” affected by some type of venereal disease, an “appallingly frequent” rate of divorce, and “bootlegging is a flourishing industry.”²²⁴ Yet, these claims are likely inflated to prove the author’s point that Native peoples had no business possessing wealth as cultivated by the Osage Nation. By focusing on various negative depictions of wealthy Osages, white Americans actively displayed their confirmation bias. They disapproved of Osage wealth and used ambiguous statistics to enforce their beliefs in the hopes that the federal government would right the “injustice” of a wealthy Native Nation. While some tribal members imbibed in bootleg whiskey to excess, attended parties with questionable figures in the oil fields, and got married and divorced in rapid succession during this time, history demonstrates this is similar behavior to other boomtowns and areas of mineral development. Not all of these activities would have resulted in a healthy community or relationships with their fellow tribal members, but it is important to recognize individual choices without ascribing moral judgment as many Americans did at the time.²²⁵

Americans and even some curious Europeans watched as the Osages were “submerged by a flood of unearned income” and believed it had “gone to their heads.” Meriam believed wealth

²²² Vaux, 72.

²²³ File No. I.C. #62-5033, Box 15, File 9, MS 427, Fred Grove Papers.

²²⁴ Lindquist, 174-175.

²²⁵ For additional accounts of Osages “spending sprees” as well as descriptions of other wealthy Native Nations see Alexandra Harmon’s *Rich Indians*. “Payment Day in Fairfax,” Story Idea notebook, circa 1948, Box 15, File 7, MS 437, Fred Grove Papers.

that “comes suddenly to an ignorant people, is often dissipated with the purchase of useless and foolish things, with results that are frequently disastrous.”²²⁶ Reporters from around the nation and even some international papers remarked on the extravagant spending and traced how the Osages once “simple desire[s]” transformed into “extravagant demands.”²²⁷ The average American’s shock and incredulity led to many equating the Osages to “children turned loose with a free hand in candy and toy shops.”²²⁸ Historian Angie Debo summarized the vast majority of newspaper headlines of the times as a “motif of ‘Ignorant Indians throwing their money around when I [the average white American] could spend it so wisely if I only had it.’”²²⁹ Government employees expressed frustration when people implored them to teach tribal members to handle their money in a “responsible” manner. The Osages had been considered a “gallant people...eagerly sought as allies by the weak,” and in the eyes of many reformers, the tribe could regain that influence again with “proper guidance.”²³⁰ When asked about tribal members spending their quarterly payments all at once, an unidentified field matron responded with a laugh stating, “Oh, an Indian always spends it all. That’s the way with an Indian.”²³¹ One anonymous letter to the editor of *The Independent* believed the federal government had subsidized “an effete Osage aristocracy” and conserved “for an indefinite and ignoble posterity the easy fruits of oil leases.” Non-Natives viewed the Osages as incapable of handling their own affairs and chose to exaggerate their perceived “foolish” antics for the general public.²³²

²²⁶ Meriam, 114, 433.

²²⁷ Hicks, 74.

²²⁸ Glasscock, 267.

²²⁹ Debo, *Oklahoma: Foot-loose and Fancy-free*, 55.

²³⁰ Lindquist, 65, 174, 176.

²³¹ Meriam, 570.

²³² E. A. Burbank spent some time among a variety of Native groups to paint their portraits. His story of the time he stayed with the Osages shocked many readers because individual tribal members “scorned [his] proposition” to paint them for two dollars a day. Burbank wrote several responded to his request with “‘How is it that you offer to pay us money when we have money to hire white people to work for us?’” This response and the sight of whites working

Reporters frequently focused their attention on the multitude of luxury goods and the houses tribal members chose to purchase or build for their families. One Osage family with nine children received a reported \$55,000 from oil lease sales and royalties within one year. The entire family continued to wear “blankets and moccasins” and kept their living expenses simple, but people marveled that “their expenditures for luxuries – automobiles, surreys, fancy blankets and trinkets are enormous and wasteful.”²³³ At the turn of the century, many Osages lived in small wooden houses or cabins and had only basic furniture, which typically included a sewing machine, chairs for visitors, and bedrolls. More tribal members accumulated goods and furniture with the development of the leasing economy, but by the oil boom, tribal members began building homes featuring the “latest architectural designs, and lavishly furnished” with “hardwood floors and leather upholstered furniture.”²³⁴ Carter Revard remembered his grandparents made sure they always had “fresh fruit on that big mahogany table in their dining room.” It is reasonable to expect tribal members to enjoy nice furnishings and even new homes during the oil boom, but many scoffed at what they considered ostentatious flaunting of their wealth.²³⁵

Visitors to the Osage Reservation frequently commented about tribal member’s style and manner of dress. White women throughout the state, who had likely emigrated to Oklahoma Territory during the land run, often envied Osage women for their fine and even designer clothing. Osage women often opted for fine high-heeled shoes typically worn to the opera and

as hired laborers for Osage families was certainly not something people expected to see. Burbank, 197; Baird, 74; Story Idea notebook, circa 1948, Box 15, File 7, MS 427, Fred Grove Papers; “Aged John Stink, Martyr, Expelled from Osage Society,” *The American Indian* Vol 1.1 (October 1926), 6; “An Apology for Murder,” *The Independent*, February 20, 1926.

²³³ Wood, “Our Government’s Biggest Gambling Center at Pawhuska,” 34.

²³⁴ Hicks, 13, 74; Burbank, 197.

²³⁵ Carter Revard, “Walking Among the Stars,” in *I Tell You Now: Autobiographical Essays by Native American Writers*, Brian Swann and Arnold Krupat, eds. (Lincoln: University of Nebraska Press, 1987), 73.

dressed their children, particularly young girls, in fine European-made clothes. Rothschild's, an upscale department store in Oklahoma City, became a favorite retailer of "the rich Osages."²³⁶ An unnamed Osage woman attended a reception at the White House in an eye-catching gown. When asked about it by a reporter, she stated, "she had purchased it in Paris."²³⁷ It is not clear whether she had traveled to Paris to purchase the item or if she had purchased at Pragers' Paris Fashion shop in Tulsa. They advertised the latest fashions direct from Paris with "Economy Basement" prices of "smart frocks" at \$15 to the "most attractive display of street frocks and afternoon gowns" from \$25 to \$225, roughly \$300 to \$3,000 each in modern currency. Other fine clothiers in Tulsa specifically designed their advertisements to encourage Osages to shop at their stores by offering "Railroad Refund Tickets" so the trip to Tulsa for the day would be complimentary as long as they purchased merchandise from participating department stores. As Osages purchased and wore the finest clothes and dressmakers in the area, neighboring whites became even more jealous of the tribe's wealth.²³⁸

Perhaps the most significant indicator of wealth among the Osages, and certainly the factor that captured the attention of Americans nationwide, was the prominent display of cars throughout the Osage Reservation. Some have argued Osages previously demonstrated their wealth through the number and quality of their horses, but after oil money permeated their

²³⁶ Marriot and Rachlin, 117; Vaux, 72.

²³⁷ ; Glasscock, 230.

²³⁸ The advertisement of refundable train travel to the luxury department stores in downtown Tulsa is reminiscent of Japanese department stores and their relationship with train travel. Japanese department store owners recognized their stores would only be as successful if customers could easily travel to the location. Therefore, many owners connected their stores to train station terminals for convenience. The Osage Nation remained in a fairly rural area and while tribal members traveled and drove cars, the fastest mode of transportation through the rough oil roads was via train. Alisa Freedman, *Tokyo In Transit: Japanese Culture on the Rails and Road* (Stanford: Stanford University Press, 2001), 287n64. "Special Purchase Sale of Plush Coats," Pragers' Paris Fashion Advertisement, *Tulsa Daily World*, October 15, 1921; "Audacious?" Pragers' Paris Fashion Advertisement, *Tulsa Daily World*, August 21, 1921; "A Few of the Many Extraordinary Values that Make Buying at This Store Worth While," Vandever's Advertisement, *Tulsa Daily World*, October 5, 1921.

society, cars soon became the fashionable luxury item.²³⁹ In 1916, Superintendent Wright wrote that in a short period, somewhere between “seventy-five to one hundred additional automobiles had been purchased by Indians.”²⁴⁰ Reporters and casual observers alike remarked on the numerous Marions, R.E.O. Speedwagons, Pierce-Arrows, and Buicks owned by tribal members. Average Americans could not afford luxury cars, but oil money allowed tribal members to purchase innumerable luxury goods.²⁴¹

Tribal members frequently requested their automobiles to be customized even if they were the latest model available. Waltima Red Corn stated a commonly held belief that the car industry did not start painting cars in colors other than black until “the Indians got money.” This might have been a fortuitous coincidence with the advancement of auto body paints in the 1920s, but what is clear is that tribal members frequently went to car salesmen asking, ““Can you get it for me in this color?” and they would point to their blanket and order a car in that color. That’s when we began to see red, yellow, green, blue, and different colors come out.”²⁴² Whether the auto industry responded to Osage requests or tribal members purchased the newest colors available, tribal members held their cars and the custom colors in high regard. Some reported their cars “were longer and shinier than others,” and they prided themselves on their pristine appearance, including Stetson hats, business suits, “handmade boots ‘by Justin of San Antonio,’” and Pendleton blankets.²⁴³ Some even hired white chauffeurs to wear uniforms and drive “\$10,000 foreign-build limousines.”²⁴⁴

²³⁹ Smith, *Big Bluestem*, 190.

²⁴⁰ Vaux, 74.

²⁴¹ Marriot and Rachlin, 11.

²⁴² Waltima Red Corn in Ball and Xavier.

²⁴³ Marriot and Rachlin, 117.

²⁴⁴ The Creek Nation experienced a similar oil boom period in the early 1900s as well, however, their people experienced wealth in unequal measure since they did not retain communal rights over oil and gas leases. Those who did experience this wealth made many of the same decisions as wealthy Osages. They wore fine clothes, hired

Many high-end clothing retailers and car salesmen established storefronts in and around the Osage Reservation throughout the oil boom, but tribal members did not spend their entire fortunes on things. Some took extended vacations and traveled extensively throughout the United States, particularly to locations within a reasonable driving distance. Others moved away from the reservation altogether. Much like modern retirees, individuals spent “winter months in warmer regions and the summer months in the mountains.”²⁴⁵ Southern California and Colorado Springs remained popular destinations, but many traveled to Hot Springs, Arkansas, Kansas City, Missouri, and even took “steamships to France, where they visited long-lost relatives who had gone there with Buffalo Bill’s Wild West Show.”²⁴⁶ For many tribal members, especially those who purchased cars and experienced the freedom they brought, the reservation became “merely a place where they received their quarterly allotments, and they return to the agency in time to receive the payment.”²⁴⁷

Whites discredited Osages and their wealth by exaggerating tribal members’ “ignorance” of the modern world and technologies. Whites frequently expressed confusion as to why tribal members would want to buy “huge houses and then [spend] most of their time in tents in the back yard.”²⁴⁸ Actions such as these reflected a blending of Native and white customs, but whites referred to these examples as evidence of ignorance of the modern world. The most popular and grossly exaggerated version of the perceived ignorance of tribal members came as

domestic servants, and drove luxury cars. One tribal member, Lucina Pittman, when to Muskogee to purchase a car, but before going to the Cadillac agent she went to a clothing store and “picked out the gaudiest color she could find.” When she talked to the Cadillac agent she “demanded a car upholstered and painted in that hue.” Non-Natives disapproved of the spending of the Osages, but this account demonstrates their desires were not unique to them. The freedom to purchase items of importance, necessity, or desire is the natural outcome of wealth, regardless of ethnicity, race, or tribal enrollment. Glasscock, 229. Davis, 197.

²⁴⁵ Boutwell, 113.

²⁴⁶ Smith, *Big Bluestem*, 190.

²⁴⁷ Boutwell, 6; Lucas, 15; Wilson, “Chief Fred Lookout,” 50; Research Notes, Box 15, File 7, MS 427, Fred Grove Papers.

²⁴⁸ Whitehead, 114.

more drove cars regularly. Stories proliferated throughout the region and eventually nationally about Osages buying top-of-the-line cars and ““On Saturday nights he would get drunk and crash into the bridge abutment. Monday morning he would buy another brand new car, explaining to the salesman: ‘Bridge no get out of my way.’”²⁴⁹ This version, among others, rely on broken English phrases attributed to an unnamed Osage to further emphasize the absurdity of Native Americans possessing money.

Another frequent story featured a tribal member who purchased a hearse with “glass sides.” One telling relates how his family rode in the back, but another states he hired a driver and placed a “comfortable rocking chair” in the back so he could “admire the scenery.”²⁵⁰ Osages who hired chauffeurs fell under the same harsh criticism of the media. An unnamed “old chief” had his chauffeur drive him to Oklahoma City, but they quickly ran into traffic and had to stop. The Osage man “ordered the chauffeur to proceed regardless of the traffic jam. When this proved impossible the chief relaxed in his seat in disgust at the lack of courage in his chauffeur.”²⁵¹ These stories are likely highly exaggerated and do not discuss the complexity and nuance that accompanied the purchase of modern technology by tribal members. Instead, reporters and visitors to the reservation painted images of tribal members that simply reduced them to inaccurate and frankly inappropriate caricatures of themselves.²⁵²

Even though cars became the most frequently discussed technologies, the *Bartlesville Magnet* made a point of discussing James G. Blaine, a tribal member who installed a telephone in his home at the turn of the century. As reported, Blaine tried to call five of his Osage friends, but no one answered the phone for various reasons (including sleeping like they were “dead to

²⁴⁹ Botkin, 278.

²⁵⁰ Whitehead, 115; Burbank, 197-98.

²⁵¹ Boutwell, 95.

²⁵² File No. I. C. #62-5033, Box 15, File 9, MS 427, Fred Grove Papers.

the world,” ill, drunk/poisoned, or had overeaten). After unsuccessfully reaching any of his contacts, Blaine declared, “Fone no d--- good.” While most accounts of “foolish spending” typically originated in the 1920s when the media paid the most attention to the Osage Nation, it is important to recognize that these grossly exaggerated “accounts” started to proliferate modern news outlets soon after the turn of the twentieth century even while oil lease sales and oil royalties remained low.²⁵³

Those responsible for writing accounts of the Osages and how they spent their oil money frequently used racist language to emphasize their point that Native Nations should not have access to extreme wealth. In addition to calling Native peoples derogatory names, such as “injun” or “squaw,” writers wrote from what they considered the “Osage perspective,” which relied heavily on broken or pidgin English. One unnamed reporter’s perspective of Osage spending patterns demonstrates the racist language used during the early 1900s: “Oil still flows in big steel tank; me got money in the bank. Buy a car and break him quick; lef’ the dam’ thing in the crick. By two more and mebbly three; one for squaw and two for me. By papoose a pair of shoes, spend what’s lef’ for wildcat booze. Have good time, but go to jail; good friend comes and goesum bail. Banker says my money gone...[sic].” This messaging, both the wildly exaggerated claims and the racist language, may have been popular in the 1910s and 20s, but the sentiment remains through current literature.²⁵⁴

²⁵³ The James Garfield Blaine of this story is of no relation to the former Speaker of the House and Senator James Gillespie Blaine. He is buried at the Pawhuska City Cemetery and his son, James G. Blaine, Jr. found himself being declared an “incompetent Indian” by the Oklahoma courts. Blaine, Jr. appealed the decision, but was denied due to his “excessive use of intoxicating liquor” and the testimony of a psychiatrist stating he “was a hopeless alcoholic.” Unfortunately, he died soon after this ruling. “James Garfield Blaine,” <https://www.findagrave.com/memorial/81443960/james-garfield-blaine>; In re Blaine’s Guardianship, *Blaine v. Colville*, 195 Okla. 205 (1945). *Bartlesville Magnet*, July 19, 1902; Lindquist, 173-174.

²⁵⁴ “The Oil Driller,” *The American Indian*, Vol. 3.1 (October 1928), 5; “How Osages Spent Money,” *The Washington Post*, August 22, 1909.

The majority of people may have been content to guffaw at stories portraying a negative perspective of Native wealth, but some came to the defense of the Osages. Multiple commenters posited the question of how anyone would make the transition from living “on a subsistence level” to living in a society where “you have more things than you know what to do with.” Some observers asked why the Osages would not want to relish the opportunities they could now afford. Others believed the stories and speculation really should not have been anyone’s concern other than the Osages themselves. These individuals agreed some tribal members acted like “Eastern playboys or Hollywood darlings,” but many utilized their wealth to make their lives more comfortable, not to the point of excess. Tribal members may have purchased new homes, a car, or taken a vacation, which were all perfectly normal activities of the upper-middle and wealthy classes. Whether deemed wise or inadvisable, the Osages handling of their money became a featured subject simply due to their race. For most white Americans, anyone of another race or ethnicity possessing wealth was an anomaly. Whites feared losing their position at the pinnacle of their constructed social and racial hierarchy, which had become entrenched in American society. Beginning with chattel slavery and continuing through segregation and the modern Jim Crow era, whites believed any black or brown communities with wealth needed to be dismissed and potentially dismantled before they could challenge their “superior” position.²⁵⁵

The Osage Nation adapted to the significant changes oil brought by acculturating modern conveniences within elements of tribal customs. Even Meriam’s government report supported the blending of cultures when he stated Native housing did not have to closely resemble traditional western homes. Instead, when wealthy Osages constructed “elaborate modern

²⁵⁵ For additional information about racial hierarchy see, Reginald Horsman, *Race and Manifest Destiny: The Origins of American Racial Anglo-Saxonism* (Cambridge: Harvard University Press, 1981) and Thomas Holt, *Black Over White: Negro Political Leadership in South Carolina During Reconstruction* (Urbana-Campaign: University of Illinois Press, 1979).

houses,” some “erected in addition elaborate adaptations of the arbor. These arbors gave them the chance for self expression.”²⁵⁶ Osages and many Plains cultures utilized arbors to provide shade during the hot summers when they visited with friends and relatives. This familiar feature kept tribal members rooted in tradition, but they utilized their wealth to ensure they had a safe and secure home to live in during inclement and winter weather. The considerable wealth of Osages did not mean they neglected their social morals and responsibilities, rather modern conveniences such as cars and large homes allowed for the expansion of many cultural elements. For example, visiting with friends and family typically occurred during the summer months due to plenty of food and fair weather, but their wealth allowed for easy entertaining to occur throughout the year.²⁵⁷ People frequently remarked on the Osages' nature and their “cordial and loyal” attitude towards friends and family.²⁵⁸ Carter Revard remembered his family’s home seemed always to be “crammed and overflowing with children.” Those elaborate western-style homes may have included fine china and other luxury goods, but families ensured everyone had an abundance of food and anyone in need had a place to stay.²⁵⁹

Osages also crafted a blended fashion consisting of both western and Native elements. Men continued to wear their hair in braids, and many women wore colorful blankets while adding in elements that signified their wealth. Observers frequently commented on how many “blanketed Indian – braids down his back and a Stetson on his head – [sat] at the wheel of an expensive automobile.”²⁶⁰ Pah-Se-To-Pah used some of his oil money to craft the most elaborate regalia any tribal member had ever seen. One magazine article valued all the elements of his

²⁵⁶ Meriam, 44.

²⁵⁷ Mrs. J. J. Quarles, “‘Tomp-Shee’ is a Favorite Osage Dish,” *The American Indian* Vol 1.6 (March 1927), 1.

²⁵⁸ Lindquist, 176, 65.

²⁵⁹ Revard, 75.

²⁶⁰ Workers of the Writers’ Program, 289.

regalia to equal \$2,500 in 1927 (over \$37,000 accounting for inflation). His “war bonnet” alone had been valued at \$600 and “required feathers from nine eagles.” This expenditure made little sense to whites but demonstrated how Native peoples could maintain their customs and way of life while enjoying the benefits of oil wealth.²⁶¹

After surviving the chaos, hunger, and disease following their relocation to Indian Territory, the profits from their leasing economy became a much-needed and valuable resource for tribal members. Oil royalties added to their wealth and allowed for even more flexible spending, but it also created additional complications for tribal members to address and manage. As more outsiders paid attention to the Osage Nation and the oil boom within Oklahoma, tribal leaders recognized their sovereignty could be damaged or revoked unless continually asserted and protected. The increased attention resulted in continued and even heightened attacks on tribal sovereignty. These attacks gained further credence by outside observers commenting on the harmful effects of wealth and emphasizing the “hopeless situation” the Osages found themselves in. The casual observer of a payment day on the reservation remarked tribal members threw “their heritage and wealth away” as they purchased all manner of things from white-owned businesses, but particularly as many consumed illegal alcohol.²⁶²

G. E. E. Lindquist, a missionary and representative of the Home Missions Council of the Federal Council of Churches, was particularly drawn to the state of affairs among the Osages. Commissioner Burke penned the introduction to Lindquist’s findings stating the account “is refreshingly free from the pessimistic, dramatic, sentimental, and satirical sketching on Indian life” even though the volume features extensive exaggeration and constant condemnation of

²⁶¹ “Most Elaborate Indian Costume in Oklahoma,” *The American Indian* Vol 1.5 (February 1927), 5; “Indians Retain Strange Rites,” *The American Indian* Vol 2.4 (January 1928), 13.

²⁶² “Payment Day in Fairfax,” Story Idea Notebook, circa 1948, Box 15, File 7, MS 427, Fred Grove Papers.

tribal members across the nation. In fact, he referenced a letter from an unnamed “Osage Indian girl” to support his indictment of the excessive wealth among the Osages. Lindquist reported she believed money “has driven our boys wild crazy and finally mad.” The account accused Osage elders of exhibiting such greed that they arranged their children as young as thirteen to be married just to procure dowry payments, which directly contradicts all other accounts of marriage among tribal members at this time. This example and many others throughout Lindquist’s findings lead the critical reader to suspect the veracity of his work. It seems as though Lindquist fabricated “evidence” to dramatize the Osages perceived ignorance and penchant towards immoral acts as many whites believed.²⁶³

Dozens upon dozens of overtly sensationalized stories about the Osages exist, but the key message of each is the racist idea that any harm or loss of sovereignty that befell the tribe demonstrated what they considered the “natural order of mankind.” One particularly vicious editorial written in response to the then unsolved murders perpetrated against the Osages plainly argued they deserved everything that had occurred. He believed the “careless government” supported “savage tribes...like so many hothouse violets” when everyone could see “their white neighbors could use [the money] to better advantage. He continued:

“It is easy for any Nordic down this way to understand the outraged feeling with which a poor Oklahoman, perhaps belonging to the Ku-Klux Klan, looks upon the Osage in his mansion, surrounded by parked motor cars in bright colors. ‘There,’ says the Nordic, ‘is a good-for-nothing redskin whose ancestors my ancestors chased all over the continent, partly for the fun of fighting and partly for the sake of relieving him of his patrimony. This wastrel is rich through no virtue of his own, but merely because the Government unfortunately located him upon oil land which we white folks have developed for him. If I had his wealth, I could do something with it worth while; but Uncle Sam, whose conscience is not what it used to be, protects the cuss. I’m a better man than that Osage any day; I can outrun, outrassle, outdrink, outthink, and outfight him. All that stands between me and that Osage’s pelf and plutocarts [sic] is the law – white man’s law, at that. Is there, I ask you any justice, any sense, in that arrangement?’”²⁶⁴

²⁶³ Lindquist, 174-175, v.

²⁶⁴ “An Apology for Murder,” *The Independent*, February 20, 1926.

This anonymous editorial demonstrates commonly held beliefs about who should and should not have property or advantages in a systemically racist society. One would hope this is a radical view of the Osages' wealth in the 1920s, but as the evidence demonstrates, as well as the research of countless historians, these views permeated Americans' thoughts.²⁶⁵

Whites flocked to the Osage Reservation for employment opportunities in the oil fields or the surrounding towns and quickly started to view tribal members as a viable source of income and even “exploitation.”²⁶⁶ The wealth of tribal members caught their attention like “a shining lure to the unscrupulous.”²⁶⁷ Much like the merchants around the turn of the century, business owners started to increase their prices for Osage consumers. Once again, price gouging became common throughout the reservation and the surrounding areas leading to some reports that families had started to run grocery bills between \$500 and \$1000 each month, the astonishing equivalent of around \$6,500 and \$13,000 in modern currency.²⁶⁸ Many pointed to this as proof of tribal members' wasteful spending, but Agent Wright argued the exorbitant amounts pointed to “unfair or extortinate [sic] dealing on the part of the merchants.”²⁶⁹

²⁶⁵ This type of attitude can easily be displayed in the events of the Tulsa Race Massacre (previously described as a “race riot”). The segregated neighborhood of Greenwood in Tulsa, Oklahoma, located roughly 15 miles from the southeastern corner of the Osage Reservation, was destroyed in 1921 by a white mob. The multi-faceted reasons include the greed and animosity white Tulsans held against people of color who had significant wealth as a result of the oil industry. On the Tulsa Race Massacre, see Randy Krehbiel, *Tulsa, 1921: Reporting a Massacre* (Norman: University of Oklahoma Press, 2019); Alfred L. Brophy, *Reconstructing the Dreamland: The Tulsa Riot of 1921* (Oxford: Oxford University Press, 2002); James S. Hirsch, *Riot and Remembrance: The Tulsa Race War and Its Legacy* (Boston: Houghton Mifflin, 2002); Tim Madigan, *The Burning: Massacre, Destruction, and the Tulsa Race Riot of 1921* (New York: Thomas Dunne Books, 2001); Scott Ellsworth, *Death in a Promised Land: The Tulsa Race Riot of 1921* (Baton Rouge: Louisiana State University Press, 1982); Oklahoma Commission to Study the Tulsa Race Riot of 1921, *Tulsa Race Riot: A Report* (Oklahoma City: Oklahoma Commission, 2001).

²⁶⁶ Meriam, 18, 569.

²⁶⁷ Sells, “Report of the Commissioner of Indian Affairs, Washington, September 1, 1915,” 46.

²⁶⁸ Wilson, “Chief Fred Lookout,” 50; File No. I. C. #62-5033, Box 15, File 9, MS 427, Fred Grove Papers; Whitehead, 115.

²⁶⁹ Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 27, 1920,” n.p.

Osages often said the merchants on the reservation offered “two prices, one to whites and another to Indians.”²⁷⁰ Local whites and “gadget salesmen” took advantage of those who did not speak English and tricked them into paying exorbitant prices.²⁷¹ In one example, “one dollar silk stockings would be sold to an Osage woman for five dollars; five-dollar shoes might sell for twenty-five dollars.”²⁷² Naturally, tribal members “resent” this treatment and refused “to buy in their place of residence.” Louis Burns remembers his mother “would not allow any of us to shop in Pawhuska...Far as she was concerned they were all crooks.”²⁷³ Store owners attracted the greatest attention, but price gouging infiltrated all manner of services offered to tribal members. For example, a couple seeking a divorce hired individual attorneys who charged their clients \$1000 each for a court proceeding “that took no more than 20 minutes before the judge.” One family spent \$2,292, nearly \$34,000 in modern currency, to bury a family member. It became clear whites did not hesitate to overcharge Osages, but the growing debt among the tribal members quickly attracted the attention of the Office of Indian Affairs.²⁷⁴

Osage Agency employees gathered information about those acting as “money sharks” by extending unlimited credit to tribal members at various area businesses. When the Tribal Council negotiated the Allotment Act in 1906, they requested the mandatory credit system operated by the Osage Agency be reduced to an optional resource for tribal members. Many tribal members refused to participate in the restrictive program, opting instead to govern their own affairs, financial and otherwise. Seeing an opportunity, some area merchants and lenders started extending unlimited credit to any tribal member who asked. The rampant price gouging

²⁷⁰ Meriam, 569.

²⁷¹ Botkin, 278;

²⁷² Smith, *Big Bluestem*, 191-92.

²⁷³ Meriam 569; Louis Burns in Ball and Xavier.

²⁷⁴ Callahan, 17; Baird, 76; “Cost of Burying Osage Indian Boy is Almost \$2,300,” *Daily Oklahoman*, September 12, 1926.

coupled with expenditures on luxury goods led to accumulating debt among some tribal members even as Agency employees admonished Osages “to avoid debt by living within their incomes.”²⁷⁵ Agent Wright reported that between 1915 and 1920, 186 tribal members had accumulated \$690,000 in debt despite receiving quarterly payments totaling \$7,030,168 during the same period. Additionally, Wright seemed to imply that most tribal members who had requested and received their trust fund money used it simply to pay off existing debts rather than for their own living expenses or future investments.²⁷⁶

As Alexandra Harmon argues in her monograph *Rich Indians*, the federal government witnessed the price gouging and corrupt practices of whites living near the Osage Nation, but “rather than bringing the grafters, usurers, bootleggers, drug dealers, and con artists under control, Congress acted to limit the amount of Osage money that circulated and excited the non-Indians’ greed.”²⁷⁷ The Sub-Committee of the House Committee on Indian Affairs traveled to Pawhuska to conduct hearings concerning the debt owed by individual Osages. Their findings concluded with the recommendation that tribal members should only receive a portion of their quarterly payment in cash while the remainder be invested for their interests. Even though criminal activities occurred throughout the Osage Nation, law enforcement typically ignored complaints from the Tribal Council, and it became clear that Congressional leaders willfully ignored the reality of Osage lives. As a result, Congress attacked tribal sovereignty rather than supporting the Osage Nation and prosecuting those committing crimes.²⁷⁸

²⁷⁵ Sells, “Report of the Commissioner of Indian Affairs, Washington, September 1, 1915,” 46.

²⁷⁶ Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, July 29, 1921,” n.p.; Carroll, “Annual Report of the Osage Indian School, August 25, 1913,” n.p.; Baird, 78; *Pawhuska Daily Capital*, December 30, 1920; Vaux, 73-74.

²⁷⁷ Harmon, 197.

²⁷⁸ Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, July 29, 1921,” n.p.

Superintendent Wright took action to eliminate the debt that had been accrued legitimately by allowing both individuals and businesses to submit outstanding debts from tribal members. Wright and agency employees investigated their claims and considered the known price gouging among area businesses to determine a fair and reasonable price tribal members needed to remit to business owners. This process continued much in the same fashion as Agent Mitscher's investigation and subsequent "credit card" system in the early 1900s. It is unknown how accurate the accounting performed by Agent Mitscher or Superintendent Wright was, but it is clear they wanted to strike a tenuous balance between supporting individual tribal members and appeasing local whites.²⁷⁹ Knowing fraud would continue, agency employees cautioned tribal members to keep their receipts and not sign anything unless a witness "in whom they have the utmost confidence" is present so they could protect themselves. Despite these measures, debt among the Osages steadily increased.²⁸⁰

As tribal members accrued more debt and more non-Natives "[helped] the Osages spend their money," commentators looked disapprovingly at what they considered the "deplorable and distressing situation" that had befallen the Osage Nation.²⁸¹ Lewis Meriam and his team focused significant attention on the Osages' wealth, debt, and education about money. They concluded quarterly payments should not be given with the attitude of "Turn the Indians loose. Let them shift for themselves." Rather, he recommended the federal government should exercise more control so Native Americans could learn to work rather than relying exclusively on their "unearned income." He believed the Osage Agency did not "yet [have] a vision of the educational possibilities involved in protecting the Indians from themselves," but they credited

²⁷⁹ Wright, "Annual Report of the Osage Indian Agency, June 30, 1922," n.p.; "Tragedy Trails Golden Rainbow of the Osages," *Chicago Daily Tribune*, February 3, 1926.

²⁸⁰ Carroll, "Annual Report of the Osage Indian School, August 25, 1913," n.p.

²⁸¹ Debo, *Oklahoma*, 43.

Superintendent Wright with protecting tribal members from “some kinds of white aggression.” However, micromanaging money often fostered resentment among Native peoples since government employees treated them “like children.” The Osage Nation had a long and successful history trading and managing business interests dating well before the colonial period – they did not need help attending to their money. Yet, the blame for Native indebtedness fell on the shoulders of Native Americans rather than whites who targeted the Osages for their money.²⁸²

Despite the Osage Nation’s steady leadership and history within a western capitalistic structure, the federal government considered all tribal members incompetent to handle their own affairs. The first use of competency in relation to Native peoples came from a treaty between the United States and the Chippewa Nation in 1864. This treaty organized Native peoples in two categories: those who could “prudently manage their affairs” and “those who are uneducated...or who are of idle, wandering, or dissolute habits.” Individuals placed in the latter category received guardians approved and sometimes appointed by the Secretary of Interior to oversee all monetary and property related matters for the benefit of their ward. The Department of Interior constructed these categories in an attempt to assimilate Native Americans into America’s capitalistic society. Federal agencies believed individuals’ lands should be protected and remain untaxed for some time while Native peoples adjusted to living independently of any federal aid. However, Native Americans in general and the Osage Nation, in particular, were not as ignorant as the federal government had assumed.²⁸³

²⁸² “Supt. Wright Has Supervised Paying of Millions to Osages,” *The American Indian* Vol 1.7 (April, 1927), 4, 16; Meriam, 101, 41, 433, 607, 570.

²⁸³ Prior to 1910, there seemed to be some confusion as to whether they should use the term “incompetent” or “noncompetent.” By 1910, the Federal District Court ruled the official term for removing land restrictions would be “incompetent.” “Noncompetent” remained in use but was limited to those who had not yet come of age or federal employees had identified “imbecility or insanity” in individual tribal members. For this study, “incompetent” will be used for the sake of clarity. *Federal Indian Law Handbook*, 555-557, 551, 553.

The first legal regulations defining competency among the Osages came in 1912, but the federal government introduced competency and guardianship to the Osage Nation in 1906 with the Osage Allotment Act. Although the wording of the act did not specifically mention guardianship, it includes two specific regulations that established the basis for declaring all Osage tribal members incompetent. The first stated that parents of minors under the age of twenty-one controlled the land and all leasing rights until the child came of age. If the minor had no living parents, the Indian Agent acted as their guardian. The second regulation concerned the sale and taxation of tribal members' allotments. The Allotment Act stipulated all allotted lands, both homestead and surplus acreage, remain restricted and not subject to taxation for at least three years. This restricted status implied all Osage tribal members who received an allotment in 1906 were in actuality considered "incompetent." This implication was further supported during the *U.S. v. Board of Commissioners of Osage County* proceedings when Judge Cottrel decided homestead allotments held by individuals without a certificate of competency should be considered restricted and untaxable lands. Commissioner of Indian Affairs Robert G. Valentine issued the first certificates of competency in 1909, and by 1910, 285 certificates had been issued, leading further credence to this interpretation. Despite the first legal regulations regarding competency being issued in 1912, it is clear the federal government considered all Osage tribal members "incompetent" as soon as they accepted allotment.²⁸⁴

As the laws regarding competency became codified, the federal government regarded Native peoples as "incompetent" until formally declared otherwise, whereas whites were

²⁸⁴ "Osage Allotment Act," June 28, 1906, 34 Stat. 539; *U.S. v. Board of Commissioner of Osage County*, 193 F. 485 (1911), Valentine, "Report of the Commissioner of Indian Affairs, Washington, September 15, 1909," 64; Pitzer, "Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, July 29, 1910," n.p.; Chap. 83, April 18, 1912, 37 Stat. L. 86; Joseph F. Rarick, "Lands Allotted Among the Osage Indians," 1978, <http://thorpe.ou.edu/treatises/partiv.html>.

assumed competent until a court reversed their status. Some Osages never received a certificate of competency if they were “blind, insane, crippled, aged, or helpless,” but for most individuals, they could potentially regain control of their legal affairs.²⁸⁵ The Office of Indian Affairs hoped all Native Americans would receive their certificate of competency since that would mean Native populations ceased to be Native and had fully assimilated into American society. In order to make that an attainable goal, competency became fluid so individuals could easily move from one status to the other. However, this fluidity allowed movement in two directions, and many tribal members found themselves possessing a certificate of competency only to have it revoked by the Secretary of Interior if government employees saw them “squandering or misusing his or her funds.” In theory, the individual in question would receive a notification of their supposed misdeeds and potentially be requested to attend a meeting or “hearing” to discuss their “irresponsible” actions.²⁸⁶ One could appeal the loss of their “competency,” but the fact that their individual liberties could be removed after obtaining full sovereign status illustrates the influence guardians maintained over tribal affairs. Those who had their competency status removed may have been indebted or fell for deceptive practices perpetrated by local whites, but others simply faced accusations of extravagance without sufficient evidence. While debt became an easy accusation to lobby at individual tribal members, it is essential to remember that the number of individuals reported as being in debt constituted less than seven percent of the tribal population. Unsurprisingly, the federal government reacted by further supporting guardianship

²⁸⁵ The 1906 Burke Act, which provided citizenship to Native Peoples who accepted allotment as well as codified additional competency regulations, does not apply to Osage citizens. The Burke Act was introduced as an amendment to the General Allotment Act of 1887, which the Osage Nation had been excluded from. As a result, the Office of Indian Affairs issued separate laws attempting to enact similar stipulations for Osages, but this process allowed tribal leaders more opportunities to negotiate and provide input on the legislation. 34 Stat. 182 (1906). Chap. 83, April 18, 1912, 37 Stat. L. 86, in Barney, 62.

²⁸⁶ Chap. 359, February 27, 1925, 43 Stat. L. 1008 in Barney, 77-78, 81.

and incompetency as a blanket policy that stripped individual liberties from every tribal member.²⁸⁷

Considered as “incompetent wards” of the United States, tribal members endured constant government oversight and invasion of their personal affairs and expenditures. Due to the continued claims of debt and “gross extravagance and waste,” an act of March 3, 1921, declared “incompetent” Osages would no longer receive their full quarterly payment.²⁸⁸ Much to the “dissatisfaction” of tribal members, the government sent their quarterly payments directly to guardians who would use the funds to pay taxes, outstanding debts and invest all but \$1000 for the benefit of their ward. “Incompetent” Osages could use the \$1000 as they liked, but government officials hoped the limited funds would limit any financial “damage” or indebtedness an individual could accrue. By reducing the amount of money entering Osage hands, agency employees believed tribal members “would be required to support themselves by their own labor,” but in response, the Tribal Council organized a “very vigorous and determined opposition.” The Osage Agency still monitored the spending patterns of “incompetent” Osages as they desired this process to be an educational experience that would lead to financial independence and full assimilation. However, in reality, their actions equated surveillance and limited freedoms for tribal members.²⁸⁹

As government officials started determining the “competency” of Osages, it was no secret that an individual’s status became intertwined with racist ideas of the time. Full blood

²⁸⁷ Inheritance of allotments became a prominent way Osages once again entered a state of “incompetency.” If a tribal member had received a certificate of competency, then inherited “a restricted estate” then they had to be declared incompetent or lose the inheritance. They could apply for competency again, but the system clearly made it exceedingly difficult to manage their own affairs without interference from the federal government. *Federal Indian Law Handbook*, 553, 1044, 1042. Meriam, 101; Boutwell, 2.

²⁸⁸ The March 3, 1921 act was entitled An Act to amend section 3 of the Act of Congress of June 28, 1906, entitled “An Act for the division of the lands and funds of the Osage Indians in Oklahoma, and for other purposes,” which is colloquially referred to as the Osage Allotment Act. *Federal Indian Law Handbook*, 580.

²⁸⁹ Wright, “Annual Report of the Osage Indian Agency, June 30, 1922,” n.p.

Osages faced the most restrictive status and more frequently declared “incompetent,” but mixed blood Osages, particularly those with less than fifty percent Osage heritage, received their certificates of competency much more frequently. In many ways, the Office of Indian Affairs seemed to adopt the assimilation strategies of the off-reservation boarding schools and other nations by limiting the abilities of full-blood Osages to focus their efforts on mixed-blood children who were assumed to assimilate more successfully than their parents.²⁹⁰ Despite the obvious racist beliefs informing competency and guardianship policies, government officials could not easily contain their excitement for the program. They frequently touted the benefits of gradual assimilation and championed a choice number of “successful” cases. Critics of the policies frequently remarked that whites did not have to endure this type of scrutiny of their personal financial accounting. However, some whites disagreed that the Osages were treated any differently from underage wards or elderly whites, who frequently had court-appointed guardians. This defense blatantly ignores the fact that the entire Osage Nation had to petition the federal government to be released from their incompetent status.²⁹¹

Meriam seized an opportunity to quote yet another unnamed tribal member who believed, “we have hundreds of Indians who would be ruined if they were turned loose...Many of our Indians aren’t making a living without having to pay taxes. They won’t be ready to be turned

²⁹⁰ On Indian boarding schools, see David Wallace Adams, *Education for Extinction: American Indians and the Boarding School Experience* (Lawrence: University of Kansas Press, 1995). On policies in the United States in comparison with Australia settler colonialism, specifically biological assimilation, see Katherine Ellinghaus, *Taking Assimilation to Heart: Marriages of White Women & Indigenous Men in the United States & Australia, 1887-1937* (Lincoln: University of Nebraska Press, 2006) and Margaret D. Jacobs, *White Mother to a Dark Race: Settler Colonialism, Maternalism, and the Removal of Indigenous Children in the American West and Australia, 1880-1940* (Lincoln: University of Nebraska Press, 2009). *Federal Indian Law Handbook*, 555, 1039; “Supt. Wright Has Supervised Paying of Millions to Osages,” *The American Indian*, Vol 1.7 (April 1927), 4; Chap. 120, March 3, 1921, 41 Stat. L. 1249 in Barney, 73; Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, July 29, 1921,” n.p.; Chap. 359, February 27, 1925, 43 Stat. L. 1008 in Barney, 77-78; Wilson, “Chief Fred Lookout,” 49; “Osage Received Millions from Oil,” *The American Indian*, Vol 1.7 (April 1927), 16.

²⁹¹ Meriam, 101; Marriot and Rachlin, 118.

loose for a good many years.”²⁹² Superintendent Pitzer lauded the efforts of those who received their certificates of competency and demonstrated industriousness. He highlighted Louis Bighorse, who he regarded as a success after he received his certificate of competency. Bighorse built his own house and barn because, as he reasoned, he could save considerable money doing so. He planted “corn, cotton, potatoes, melons, besides other miscellaneous stuff” on his land, which “was practically a wilderness and had to be grubbed out.” He employed two young men and insisted his nephews who had come for a visit had to work since “he did not propose to feed them and have them lay around and do nothing... everybody around his place had to work.”²⁹³ Even with some successful assimilation stories, most Osages bristled at being declared “incompetent.” They viewed the designation as yet another government regulation that needed to be navigated and manipulated to benefit their people rather than become a defeating and onerous measure.²⁹⁴

Guardianship for Osage minors operated under special considerations since the parents of children under twenty-one assumed responsibility for their children’s money as their guardian. Prior to the height of the oil boom, even if the Osage Agency determined a parent to be “incompetent,” they refused to appoint a white guardian to oversee their children’s finances. Some minors had white guardians due to not having any known living relatives or if the Agency determined their biological parents had “misused” their children’s estates. As the Osages received more money, agency employees grew concerned about parents not properly investing their children’s money. In fact, government officials assumed many parents simply wasted any money they had rather than looking to their child’s future.²⁹⁵ In 1919, Superintendent Wright

²⁹² Meriam, 101, 103.

²⁹³ Pitzer, “Annual Report of the Osage Indian School, 1911,” n.p.

²⁹⁴ Debo, *Foot-loose and Fancy-free*, 43.

²⁹⁵ Chap. 83, April 18, 1912, 37 Stat. L. 86 in Barney, 61; *Federal Indian Law Handbook*, 1038, 1040-1041.

required tribal members to submit “itemized statements, showing the manner in which annuity funds of their minor children have been used.” Agency employees “carefully audited” the statements, but Osage attorney W. T. Mosier filed a suit with the Supreme Court to stop the measure. He argued that “so long as the expenditure does not constitute a misuse and squandering of said funds,” then tribal members should not have to submit reports. The Supreme Court agreed the agency had acted outside the bounds of the law requesting itemizations from every tribal member with children but concluded government officials did have the right to request more detailed information if warranted.²⁹⁶ It is unknown whether Wright received directions from the Office of Indian Affairs to stop reviewing expenditure reports for minors or if he simply felt uncomfortable with the pressure and influence the Osage Nation leveled against the policy, but the required itemized reports concluded in 1921. At that point, Congress further reduced the funds biological parents could use from their children’s quarterly payments. Parents only received \$500 per child under eighteen and eventually \$1000 for each minor between eighteen and twenty-one years old per quarterly payment. The remainder went to an Individual Indian Money account in the Treasury Department, and upon their maturation, the tribal member could then access their money based on their “competency” as determined by the Agency employees.²⁹⁷

Even though Native parents typically served as guardians for their minor children, in 1920, Superintendent Wright determined 500 Osage children with living parents had been assigned white guardians, seemingly without just cause. Rosa Hewitt Williams had two allotted children with George W. Hewitt before their divorce. Because she was Osage and he was white,

²⁹⁶ Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 14, 1919,” n.p.

²⁹⁷ Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 27, 1920,” n.p.; Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, July 29, 1921,” n.p.; Chap. 120, March 3, 1921, 41 Stat. L. 1249 in Barney, 73; Chap. 359, February 27, 1925, 43 Stat. L. 1008 in Barney, 77.

he received guardianship responsibilities for his two eldest children. Williams brought suit against him since the children resided with her and within the Osage Nation. Even though she argued she alone could provide the best care and responsible monetary action with her children's estates, the court allowed Hewitt to remain a guardian for his children since he was related. The *Williams v. Hewitt* case became an issue of relationship and biological children, but the ruling also determined that if there had been no biological relationship, then the living Osage parent would assume the role of their heir's guardianship. This one action led to the voiding of 500 guardianships that had been appointed through Probate Courts.²⁹⁸ Rosa Williams may not have won her case, but she significantly strengthened the Osages' internal relational web through her actions. Osage parents, particularly those with children from inter-racial marriages, now had legal precedent to safeguard their children and their monetary resources from individuals who merely wished to control their money.

The Secretary of Interior, as well as the Osage Superintendent, appointed guardians to oversee the affairs of "incompetent" tribal members. Even as they infringed upon individual liberties, government officials believed those who had guardians had more advantages and protections since they could not "be subject to the lien of any debt, claim, or judgment except taxes." The primary task of any guardian for Osage tribal members came in the form of monitoring responsible investments and to safeguard against the ever-present concern of wasteful spending. Appropriate investments could be "United States bonds or in Oklahoma State, county, or school bonds" or placed in interest accruing bank accounts.²⁹⁹ Those who

²⁹⁸ Wright, "Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 27, 1920," n.p.; *Williams v. Hewitt*, 74 Okla. 283 (1919).

²⁹⁹ By 1920, Superintendent Wright tried to keep as much Osage money within the state of Oklahoma as he possibly could. Some argued tribal members would be able to secure a higher interest rate utilizing state banks (around 5% interest in the early 1920s) instead of the Treasury Department. Others thought keeping Osage money in Oklahoma

wished to be appointed as a guardian filed paperwork with the district court and the Osage Agency. Once filed, agency employees would investigate the individual's conduct and reputation to determine the eligibility of the individuals to serve as a legal advisor. The Secretary of Interior reviewed and issued the final approval of all guardians, which also allowed him to intervene in any situation where he thought a tribal member's "estate is in any manner being dissipated or wasted or is being permitted to deteriorate in value by reason of the negligence, carelessness, or incompetency of the guardian."³⁰⁰

Many believed if guardians had not been placed in charge of Osage finances, tribal members "would enjoy a rapid succession of colorful drunks and soon be off to the happy hunting grounds with their usually impassive countenances wreathed in smiles..."³⁰¹ Although some felt the guardian system could result in fraud, they wrongly believed tribal members controlling their own money would result in disastrous outcomes. To them, the more responsible measure would be to place oil royalties in the Treasury Department. The Osage Nation immediately resisted these regulations and the government's intrusion and micromanagement of their lives. Fortunately, the money tribal members earned from land rentals, grazing and agricultural leases did not fall under the government's regulations. Money received from any source other than oil leases and royalties would be distributed directly to tribal members

would "benefit the growing state" since money placed in the Treasury is then reinvested in US trusts and bonds. It is also possible that Superintendent Wright and other agency employees wanted easier access to records so they could closely oversee guardian actions. While the true reason is not known, it is clear Osage money, whether being actively spent, saved, or invested had a considerable impact on local, state and federal economies. "Plan to Keep Indian Money in Oklahoma is Gaining Favor," *The American Indian* Vol 1.10 (July 1927), 3; Wright, "Annual Report of the Osage Indian Agency, Oklahoma, August 27, 1920," n.p.; Wright, "Annual Report of the Osage Indian Agency, June 20, 1922," n.p.

³⁰⁰ Chap. 83, April 18, 1912, 37 Stat. L. 86 in Barney, 61-62; *Federal Indian Law Handbook*, 1038; Chap. 359, February 27, 1925, 43 Stat. L. 1008 in Barney, 78.

³⁰¹ "An Apology for Murder," *The Independent*, February 20, 1926, n.p.

regardless of their “competency” status.³⁰² The unregulated sources of income provided some relief and autonomy, but with the federal government, agency employees, and their guardians controlling most of their finances, many believed they had been placed “in slavery.” A common sentiment of the time was that federal employees “won’t let me have enough money to live decently on. He’s scalping my soul.”³⁰³

Opportunistic whites who envied the fortunes of the Osage Nation saw guardianship as a way to gain unprecedented access to Osage money. To them, becoming a guardian quickly “became another way of bilking the Osage wealth.”³⁰⁴ By 1921, close to 400 adult tribal members had guardians. Between 1919 and 1924, a total of 374 individuals and corporations served as guardians, excluding the parents of minor children. The average guardian oversaw the actions and finances of between one and five individuals, but some eagerly sought additional wards, such as Homer Hoffaker, who served as a guardian for thirteen tribal members. That number of wards was highly unusual for an individual, but some families used their status in the community to accumulate the highest total of wards. For example, the Drummond and Simonek families had sixteen and ten wards, respectively, that they managed between family members. Fortunately for tribal members, the individuals and families who seemed to collect guardianships remained few even at the height of the oil boom.³⁰⁵

Many who became guardians found the position tiresome due to the complexities of working closely with individuals and abundant government regulations. T. M. Finney became

³⁰² *Federal Indian Law Handbook*, 1038, 1041-42, 557; Chap. 120, March 3, 1921, 41 Stat. L. 1249 in Barney, 73; Chap. 83, April 18, 1912, 37 Stat. L. 86 in Barney, 62; Brosius, “Impressions from a Summer’s Tour,” 124; Chap. 359, February 27, 1925, 43 Stat. L. 1008 in Barney, 77.

³⁰³ Louis Burns in Ball and Xavier.

³⁰⁴ Callahan, 17.

³⁰⁵ Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, July 29, 1921,” n.p.; Guardians and Administrators Addresses, 1919-1924, Register of Guardians, Box 1, RG 75, Records of the Osage Agency, Records of the Field Solicitor, NARA-FW [Hereafter referred to as Records of the Field Solicitor, NARA-FW].

the guardian for Eu-Pah-Shon-Kah-Me, also known as Pearl McKinley, as an orphaned minor after promising a friend he would care for the girl. When she came of age on October 28th, 1927, Finney expressed relief since it took so much time and he was closely monitored by the Osage Agency. However, the district court declared her “incompetent” only six days later, and Finney once again became her legal guardian until his death in 1935. Pearl married five times and had “several wrecked cars,” which as Finney’s grandson later recalled, “caused Grandpa (T.M. Finney) a lot of trouble...he would’ve given up the guardianship if he had not promised his old Indian friend he would look after his granddaughter.” For those who took their guardian appointments seriously and followed the proper regulations and documentation required, the position could quickly become a burden. Those who only kept their wards information “in my head or sometimes maybe I would make a little memorandum” easily found themselves losing track of the records either willfully or unintentionally.³⁰⁶

Although there seemed to be some measures taken to safeguard Osage wealth from potentially nefarious guardians, it is essential to remember that the guardianship system took time to codify into firm regulations. This meant the first guardians frequently had unfettered control of Osage money and made dubious investments on behalf of their wards. The Osage Agency liked to brag that the Osage Hills, once home to numerous outlaws, had been freed from “lawless characters” and “organized bands,” but they failed to recognize the guardian system ushered in new criminal enterprises.³⁰⁷ Guardians and attorneys rivaled one another for complete control of the courts, local whites supported defrauding Osages, and slowly corruption infiltrated the state legislature, the press, and even “the church was silenced by the profits of the unholy

³⁰⁶ Account Book Kept by T. M. Finney on the Guardianship of Pearl McKinley, 1913-1927, Box 1, File 6, Finney Collection; Research Notes, Box 15, File 7, Ms 427, Fred Grove Papers.

³⁰⁷ Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 22, 1917,” n.p.

traffic.”³⁰⁸ When John Collier became the Commissioner of Indian Affairs in 1933, he recognized that guardians frequently fell into corruption, and the Osages themselves paid the price as their “estates were looted.”³⁰⁹

Many guardians of wealthy Osages managed their ward’s estates in ways that primarily benefitted themselves. They often created financial schemes that allowed them to skim money from accounts without the knowledge of tribal members and perhaps even with the tacit approval of local officials. Some guardians used money from Osage accounts for purchases that appeared to go to their ward but instead solely benefitted the white guardian’s friends and family. One unnamed tribal member earned a total of \$86,142 between 1916 and 1926, but by the time his guardian had “invested” his accounts, the tribal member had one car in his name that was “valued at \$350 on which he still owed \$400.” Tribal members accused guardians of thievery and inflating prices on goods. One guardian sold a car to his ward for \$1,250 when it was only worth \$200 while the guardian “earned” over \$1,000 from the transaction. Some estimated that by 1925, legal guardians had “milked over eight million dollars from the Osages they had been hired to protect.”³¹⁰

³⁰⁸ Debo, *Oklahoma*, 43.

³⁰⁹ Collier, 244.

³¹⁰ The Osage Nation did not experience the negative effects of guardianship alone. The Office of Indian Affairs also implemented guardianship among the Five Tribes, which frequently developed into more dramatic tales of devastation due to the allotment of their mineral rights and the limited collective legal action the Five Tribes could pursue. Kate Barnard, the Commissioner of Charities and Correction of Oklahoma found three “wild” Creek children when she worked around the Glen Pool oil field. Located just south of the Osage Reservation, the Creek Nation experienced an earlier and similar oil boom as the Osages. When Barnard discovered the children she found them “sleeping in the hollow of an old dead tree, drinking from a nearby stream, and eating at neighboring farm-houses.” As she investigated who the young children were, she found they had been orphaned and assigned a “guardian” to look after their needs. The guardian “had been charging exorbitant prices for their schooling and other expenses, yet he himself did not know where the children were.” He had assumed the responsibility of 51 additional children and subsequently planned to rob their estates while leaving the children “to be cared for at the expense of our taxpayers.” Even though this account does not directly mirror the Osages experiences, it demonstrates the pervasive nature of corrupt whites assuming the position of guardian over Native Peoples, particularly children. Barnard, 18.

Because of the continued graft by guardians, tribal members requested the Secretary of Interior intervene by establishing additional laws on guardianship behavior. On February 27, 1925, Congress passed a law greatly restricting the actions of guardians. No longer would they have unrestricted access to Osage money; instead, they could only control \$4,000 per year for each adult ward and \$2,000 per year for each minor. If the individual received additional funds beyond the prescribed yearly amount, which had been the case for about a decade, the excess would be remitted to the Secretary of the Interior to be held in trust in the tribal member's Individual Indian Money accounts in the Treasury. Naturally, guardians balked at this new ruling, but many obliged after the Secretary of Interior stated he would take legal action against any guardians who did not adhere to the new law. This law added additional protections for Osages since it required them to approve of all investments made on their behalf prior to any exchange of funds.³¹¹ Some outside observers believed that when Native Nations encountered constant pressure from "the claims of white settlers to a share in the Indian resources," they simply could not resist, but tribal members worked with their neighbors. When needed, they utilized negotiation and diplomacy to encourage the federal government to aid them by changing the laws and providing more oversight, preventing the theft of their resources.³¹² Osages may not have wanted to include guardians into their communities, but once they were in place, the Tribal Council relied on their allies to craft laws and policies to protect their people.

The oil boom presented many issues that needed to be carefully navigated, but the disbursements of headrights to non-tribal members became one of the most detrimental for the Osage Nation. Many contemporary whites and subsequent historians believed any theft that

³¹¹ Louis Burns in Xavier and Ball; Baird, 74, 76; Smith, *Big Bluestem*, 192; *Federal Indian Law Handbook*, 1040; Chap. 359, February 27, 1925, 43 Stat. L. 1008 in Barney, 78-79.

³¹² Meriam, 784.

occurred “were comparatively painless” since “There was so much money left that the Indians hardly missed the diverted fractions.”³¹³ This common attitude led to the loss of approximately one-fourth to one-third of the total headrights held by Osages before Congress listened to the Osage Tribal Council’s requests to amend legislation that officially prohibited headrights from leaving the hands of the tribe. Before 1924, no laws limited the selling or transfer of headrights to another owner, Osage or non-Native. The lack of oversight meant that headrights became vulnerable to theft and transfer during the height of the oil boom. Some headrights slipped away from Osages through fraudulent individuals who used bribes and manipulation to be included on the tribal rolls, but more were procured through graft and greed.³¹⁴ Frank Red Corn remembered his family discussing how whites requested signatures of tribal members on deeds that had been “printed up in a little shop right here [in Pawhuska]” in an attempt to obtain their lands, control of their oil money, and a full transfer of their headrights. Some tribal members may not have spoken or understood English, but they clearly understood the threats to their families if they refused to sign the illegal documents, particularly when confronted by influential area businessmen and lawyers.³¹⁵

The rise of thefts resulted in headrights being owned by individuals and companies across the world. Orphaned tribal members faced the most risk for theft since they had to rely solely on guardians to protect and invest their headright money wisely. Some orphans, such as Pearl McKinley, had responsible guardians who knew their relatives and promised to care for the children after their deaths; however, less fortunate orphans had faceless and unknown guardians such as banks and monetary institutions. Involving a third-party company to oversee orphans’

³¹³ Glasscock, 271.

³¹⁴ Chap. 95, April 12, 1924, 43 Stat. L. 94 in Barney, 76; Vann Bighorse in Ball and Xavier.

³¹⁵ Frank Red Corn in Ball and Xavier.

accounts instead of tribal members meant the Osage Nation had no control over how their money was spent or where it went if the allottee died. If a young ward died prior to coming of age or did not receive their certificate of “competency” prior to their death, their headright transferred to the bank owners, such as the case of Maude Tinker Little Bear, San-Se-Ga, and Frank Revelette when their headrights went to the Citizens Trust Company upon their death. Headrights also found their way into the hands of the Phillips Petroleum Company, likely through graft, and the Catholic Church, presumably due to individuals wanting to bequeath their headright for the benefit of their church.³¹⁶ One particularly interesting anecdote of a headright featured an unnamed Osage man who traveled to Kansas City for a vacation. There he met the beautiful and famous actress Jean Harlow and quickly fell in love. It is not clear if Harlow receipted that affection, but the man became so infatuated with the actress he willed his headright to the actress upon his death.³¹⁷ Whether these headrights slipped away from Osage owners through generous bequeathment, stolen outright by nefarious guardians and businesses, or secured by threat of violence, imprisonment, or threats of “we’ll send your kids to school and you’ll never see them again,” Osages lost many headrights during the oil boom period. These actions did not just defraud the tribe of oil and gas money but also affected future governance as those with headrights also had the privilege to vote in tribal elections until the Osage Nation approved a new constitution in 2006.³¹⁸

³¹⁶ Account Book Kept by T. M. Finney on the Guardianship of Pearl McKinney, 1913-1927, Box 1, File 6, Finney Collection; Guardians and Administrators Addresses, 1919-1924, Register of Guardians, Records of the Field Solicitor, NARA-FW.

³¹⁷ James R. Gray, "Citizen Engagement: The Key to Establishing and Sustaining Good Governance (Q&A)," 70th Annual Convention & Marketplace, National Congress of American Indians. Tulsa, Oklahoma, October 15, 2013, Presentation, <https://nnigovernance.arizona.edu/jim-gray-and-patricia-riggs-citizen-engagement-key-establishing-and-sustaining-good-governance-qa>; Smith, *Big Bluestem*, 193.

³¹⁸ On the Osage Nation’s constitutional efforts in the early twenty-first century, see Jean Dennison’s *Colonial Entanglements*. Frank Red Corn in Ball and Xavier.

Tribal members could apply through the Osage Agency for their certificate of competency, but doing so meant opening up their lives and choices for scrutiny by government employees attempting to determine if the individuals had “sufficient ability, knowledge, experience, and judgement to enable him to conduct the negotiations for the sale of his land and to care for, manage, invest, and dispose of its proceeds with such a reasonable degree of prudence and wisdom as will be likely to prevent him from losing the benefit of his property or its proceeds.” Agency employees reviewed past and present actions and behaviors of tribal members, and typically only recommended those who were “young, able bodied and able to work” to be declared “competent” just in case they “squandered” their money. That way the individual could take care of themselves rather than “become a charge on the county, state, or Federal government.” Once declared “competent” tribal members received their full payment of oil and gas proceeds at each quarterly payment and could withdraw their trust money held in the Treasury. These individuals willingly separated themselves from the supervision and observation of federal employees and commenced living as they saw fit.³¹⁹

Agency employees began issuing certificates of competency soon after allotment and the number steadily increased. By 1909, 402 tribal members had been declared “competent,” and by 1922, over 600 had received their certificates. The numbers of independent Osages may have increased, but in reality, the majority of individuals receiving their certificates of competency were those “able-bodied adult Indians of less than one-half Indian blood.”³²⁰ Starting in 1917,

³¹⁹ *Federal Indian Law Handbook*, 554; Meriam, 100; Hugh Pitzer, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, July 29, 1910,” n.p., RG 75, Annual Narrative and Statistical Reports from Field Jurisdictions of the Bureau of Indian Affairs, 1907-1938: Osage, 1910-23, NARA-DC; Chap. 120, March 3, 1921, 41 Stat. L. 1249 in Barney, 73; Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 14, 1919,” n.p.

³²⁰ Pitzer, “Annual Report of the Osage Indian School, 1911,” n.p.; Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 26, 1918,” n.p.; Wright, “Annual Report of the Osage Indian Agency, June 30, 1922,” n.p.

Commissioner of Indian Affairs Cato Sells began “a new era in Indian administration,” focusing assimilation efforts specifically for Native Americans of mixed ancestry.³²¹ According to Sells, assimilating mixed-blood Indians would free the government from a significant portion of their financial responsibility for their “wards” while also providing “self-respect and independence for the Indian.”³²² Superintendent George Wright agreed with Sells and frequently reported mixed-blood Osages were “capable as the average white man,”³²³ and because “of the [small] quantum of Indian blood...means they should be able to handle their own affairs.”³²⁴ With support from the local superintendent and the Commissioner of Indian Affairs, Osage tribal members over twenty-one years of age “with less than one-half Indian blood” would automatically be considered for receiving their “certificate of competency” and, if approved, had “all restrictions removed from their land.” While this may seem like a victory for the Osages, it highlights the ever-present racism of federal policies since it placed preference on individuals who they deemed significantly less Native than others. Full-blood Osages still had to contend with the daily meddling of federal employees regarding their financial and personal affairs.³²⁵

Although the federal government announced they would grant certificates of competency as a step closer to embracing their primary goal of full assimilation, many Eastern Reformers and government officials hesitated in relinquishing control over Indian affairs, lives, and bodies. Every Osage tribal member wishing to be declared “competent,” handle their own affairs, and officially be declared citizens had to apply for the status through the Osage Agency.³²⁶ The

³²¹ Lawrence C. Kelly, “Cato Sells, 1913-1921,” in *The Commissioners of Indian Affairs, 1824-1977*, Robert M. Kvasnicka and Herman J. Viola, eds. (Lincoln: University of Nebraska Press, 1979), 248.

³²² Dennison, 58.

³²³ Pitzer, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, July 29, 1910,” n.p.

³²⁴ Carroll, “Annual Report of the Osage Indian School, August 25, 1913,” n.p.

³²⁵ Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, July 29, 1921,” n.p.

³²⁶ In 1921, Congress voted to count Osage tribal members as citizens as long as they met the following conditions: they had to be over the age of 21, they had to have a certificate of competency as granted by the Office of Indian

Osage Superintendent and the Commissioner of Indian Affairs reviewed their applications, but final approval came from the Secretary of Interior. At each step in the process, white men made assumptions based on individual lives and if a declaration of “competency” “would be in the best interest of the Indian.” Three white men stood in the way of tribal members’ independence from federal oversight and becoming citizens of the United States. This process of making sweeping value judgments of Native lives continued for decades as Congress continued to support the Bureau of Indian Affairs competency classification of Native Americans as late as 1948.³²⁷

Declaring Native Americans as “competent” or “incompetent” quickly became widely hailed by whites as beneficial for protecting Native Americans from unscrupulous individuals and their own base desires and lack of education. Lewis Meriam’s survey of Native American conditions in 1928 heartily supported the system stating the program was “eminently sound in theory.” Meriam recommended certificates of competency be carefully bestowed upon only those who have “given sufficient demonstration of his capacity to make his own way.” He thought the Office of Indian Affairs should focus their attention on the actions the applicant had already completed asking questions like “What have been his means of livelihood in the past? What has he earned each year in these fields by his own efforts? To what extent has he depended for his own support and for that of his family upon unearned income, such as rent from leased land, distribution of tribal funds, the sale of surplus lands, and other such sources upon which so many Indians are largely dependent for their existence?” Like so many before him, Meriam continued to judge Native peoples based on prevailing American ideas of work and responsibility. For the Osages in particular, once again, their efforts of wealth development,

Affairs, or they were less than 50% Osage by blood. The idea was that individuals would remain wards of the United States until they had proven themselves capable of being “competent.” *Federal Indian Law Handbook*, 1033-1034; Chap. 120, March 3, 1921, 41 Stat. L. 1249 in Barney, 73; Lamsam and Johansen, 277.

³²⁷ *Federal Indian Law Handbook*, 1038, 553, 1045.

creating a leasing economy, and negotiating the best arrangements in various economic ventures went unnoticed and dismissed as “unearned” – read “undeserved” – income.³²⁸

When a tribal member received their certificate of competency, they received a “fee patent” for their allotment, meaning the individual owned the land outright, and the federal government no longer held it in trust. Even though the federal government never owned the Osages’ reservation, they did hold the land in trust after the Allotment Act of 1906 to ensure tribal members could not sell their lands or lose them due to corrupt guardians or to pay any outstanding debts. With the first distribution of certificates of competency, thousands of acres of surplus land allotments were sold. Three years after the agency issued the first certificate, 40,000 acres had been sold. Much of the land offered for sale was sold as payment for the outstanding debts that had been accumulated due to price gouging from area individuals and businesses.³²⁹ Many believed that “The Indian faces too swift and treacherous a current” to be given title to their lands only to lose it before they understood how to manage it for their benefit. Agent Carroll believed the majority of Osages wanted to obtain his certificate of competency “to be in a position to dispose of his surplus land and thereby obtain additional funds to satisfy his extravagant tastes.”³³⁰ Tribal members did not desire to sell their lands. The land remained a vital part of their culture and heritage, but it also provided them with resources. Not counting the monetary profits garnered from their reservation, the food they cultivated, the natural resources in the area, and the bonds they formed with those they incorporated into their internal relational

³²⁸ Meriam, 39-40, 103-105, 100, 173-174; *Federal Indian Law Handbook*, 1035, 1043.

³²⁹ A contributing factor to the sale of Osages lands came from a Congressional bill passed in 1918 that allowed those with a certificate of competency to sell their homestead allotments. The idea was to allow tribal members the flexibility to move to other portions of their allotments, but the reality meant many Osages sold their most valuable properties, including improvements, which had primarily existed on their homestead allotments. Chap. 86, May 25, 1918, 40 Stat. L. 561, 578 in Barney, 70; *Federal Indian Law Handbook*, 1033. Chap. 83, April 18, 1912, 37 Stat. L. 86 in Barney, 63; *Federal Indian Law Handbook*, 1032-1033, 1035; Pitzer, “Annual Report of the Osage Indian School, 1911, n.p.

³³⁰ Meriam, 471, 100, 174; Carroll, “Annual Report of the Osage Indian School, August 12, 1912,” n.p..

web through leasing arrangements became critical components to Osage life. Many tribal members who parted with their lands during the oil boom did so under duress, or the lands were outright stolen from them.

Meriam's 1928 survey could not determine exact statistics as to how many Native Americans across the country received their fee patents and successfully managed to keep their lands, but he estimated the majority lost their lands to taxes, graft, and squatters. Superintendent Wright reported that in 1916 a total of 13,126 acres sold for a total of \$82,803.26, but those individual allottees had little money left to their name after they had paid off their debts. Despite the rapid rate at which Osages sold portions of their allotments, the federal government continued to allow land sales to pay for the debts of tribal members even though most of the debts had been incurred through price gouging and fraudulent investments. By 1921, Superintendent Wright estimated 760,000 acres of the Osages original reservation had either been sold or were now unrestricted since the owners had received the fee patent to their lands. He argued the Osages "are receiving ample money for their maintenance [so] there is but little reason for any of them selling their land..." Even though Wright couched his statements as concern for the tribe, it is likely he considered his own position since the Osage Agency and their many employees found themselves with quickly diminishing power and influence over the Osage Nation at large.³³¹

Although Osages sold their lands, their leasing economy remained intact and helped limit how much acreage could be sold. Every tract of land offered for sale had to be assessed based on

³³¹ Wright, "Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 15, 1916," n.p.; Wright, "Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 22, 1917," n.p.; Wright, "Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 27, 1920," n.d.; Pitzer, "Annual Report of the Osage Indian School, 1911," n.p.; Wright, "Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, July 29, 1921," n.p.

the leases attached to the property. Any agricultural and grazing lease needed to be terminated or expired prior to the sale, while oil and gas leases remained part of the reserved subsurface rights retained by the Osage Nation. The Tribal Council's insistence on retaining the mineral rights for their people meant headrights could be inherited by relatives or designated persons in individual wills or through guardianships. However, they could not be sold no matter the circumstances or indebtedness of the individual. This allowed the Osage Nation to retain their wealth and protected their relational web from the majority of non-Osages inundating Osage County.³³²

A common criticism of the Osage Nation revolved around taxation and the federal government's special tax status for tribal members. In response, many state governments refused to offer services for Native Americans, such as free public education or access to county hospitals, because they did not pay taxes like other residents.³³³ One white reporter commented on how Osage County remained one of the wealthiest counties in the state of Oklahoma but "has fewer and poorer roads and public schools than any other" since the Osages did not pay property taxes unless they had been declared "competent." Additionally, neither oil production nor the Osages' royalties from oil were taxed until 1921.³³⁴ The Office of Indian Affairs assimilation strategy emphasized that Native peoples needed to be eased into white culture and the American capitalistic structure. Therefore, "the plan has been to teach the Indians, by partial taxation, to assume the responsibilities of citizenship." This blanket approach to Native American's understanding of the world around them discounts past experiences of all Native Nations, but it

³³² *Federal Indian Law Handbook*, 1032; Lucas, 9.

³³³ Meriam, 94-95.

³³⁴ Wood, "Our Government's Biggest Gambling Center at Pawhuska," 34.

especially ignored the Osages' long history of navigating change and crafting economic ventures for generations.³³⁵

The Office of Indian Affairs refused to charge taxes for any tribal member who had been declared "incompetent" since they believed this made life even more difficult for them. Additionally, according to the Osage Allotment Act, all allotments designated as a homestead were placed in an "inalienable and non-taxable" state for twenty-five years while their "surplus lands" remained "inalienable for twenty-five years and non-taxable for three years." If the Office of Indian Affairs declared a tribal member to be "competent," all their allotments were removed from the protected federal status, and the individual had to pay all state and county taxes applicable. While this may have seemed to be a reasonable measure, after receiving certificates of competency, many individuals realized they did not have the means to pay the taxes for their lands. This was particularly true for the 471 tribal members who had been declared "competent" between 1910 and 1916.³³⁶ The Osage County officials who appraised the land during this period grossly overestimated the taxes owed. They valued the lands at \$657,000, which, as Agent Wright estimated, "is probably double the actual cash value of the lands during the time the taxes were levied."³³⁷ The historical record does not indicate if the inaccurate land appraisals were performed maliciously in the hopes of securing valuable Osage lands, but this remains a plausible theory. White settlers vied to gain access to the tribe's land holdings for generations. Definitive proof of ill-intent may not exist, but the timing of the appraisals and subsequent loss of land occurred soon after highly lucrative oil wells had been located in the area, lending further credence to this theory.

³³⁵ Newman, 205; Lamsam and Johansen, 277; Ambler, 41; *Federal Indian Law Handbook*, 1036.

³³⁶ Meriam, 44; *Federal Indian Law Handbook*, 1031.

³³⁷ Wright, "Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 15, 1916," n.p.

After realizing the outstanding taxes that needed to be paid for his lands, Franklin Hickman filed suit against the Board of County Commissioners of Osage County in 1916. The case of *Hickman v. Board of County Commissioners* resulted in the Bureau of Internal Revenue admitting “the taxes which had been paid during the past years were greatly in excess of the amounts properly due.”³³⁸ To aid and defend their people, the Osage Tribal Council utilized their relational web to hire lawyers to determine the appropriate tax rate and to secure refunds for the overpaid taxes. While this provided relief for those subjected to unfair tax rates, those who sold their lands to avoid paying the taxes or sold a portion of the lands to pay the remaining taxes did not see the return of their lands. As a result of the high tax rate, the Tribal Council encouraged Congress to adopt legislation that would exempt Osages from taxes if their homestead allotments were “held by the original allottee prior to April 8, 1913.” Additionally, the case of *La Motte et al. v. United States*, argued before the Supreme Court by T. J. Leahy and Charles S. MacDonald, provided further protections for tribal members by stating if a tribal member inherited a homestead allotment, the land would remain non-taxable if the recipient had over fifty percent Indian blood. Due to continued legal action and negotiations between tribal leaders and government officials, Congress extended these protective measures until 1959.³³⁹

Most outside observers believed mixed-blood Osages would desire their certificates of competency while full-blood Osages would vehemently resist; however, it is clear tribal members weighed the benefits and possible disadvantages of applying for a certificate of competency. Meriam reported that an unidentified Native man who held a prominent position in the tribe did not want to be declared “competent” because, as he reasoned, “If he took one, the other

³³⁸ *Hickman v. Board of County Commissioners*, 63 Okla. 14 (1916); Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, July 29, 1921,” n.p.

³³⁹ *Federal Indian Law Handbook*, 1034-1035; *La Motte v. United States*, 254 U.S. 570 (1921).

Indians would say he had gone white and he would lose his influence with them.” Others wanted the land to remain within the tribe and not risk losing what little land remained. Federal employees commonly believed Native American’s “incompetent” status reflected their supposed “limited” mental faculties, but many used the status to benefit financially. One such individual, Charles Curtis of the Kaw Nation, became a Senator and later Vice President of the United States, but “remained all his life an incompetent Indian” because it allowed him to keep his land in a tax-exempt state. It is important to remember that the Osages often utilized competency and their legal status in ways that ran counter to what Americans would have expected, but their actions always remained calculated and focused on what would benefit them, their families, and their Nation.³⁴⁰

In addition to navigating the complexities of their legal status and their increased wealth, the Osage Nation found the environment fostered by the oil boom challenging due to the amount of attention it generated. Not only did people tour the Osage Reservation with interest or write copious and often factually inaccurate articles about the tribe’s wealth, but tribal members also had to contend with boomtowns and transient workers. Itinerant workers, typically white men, flocked to the oil fields lured by the high wages of twelve to eighteen dollars a day. This money came easily and disappeared among the litany of activities and amusements available at saloons, clubs, and numerous hands of cards, not to mention the frequently “overpriced commodities” and housing. The only difference between the Osage oil boom and other mineral rushes was the fact that a Native Nation held the deed to the land. This complicated the leasing process for oil development, but it also lent an additional air of lawlessness to the environment due to a lack of

³⁴⁰ *Federal Indian Law Handbook*, 553.

trained law enforcement in the area and the complicated jurisdictional lines for individuals on Native lands. Many agreed with Meriam's findings that Native Americans faced "a notable absence of adequate organization" and understanding regarding what offenses should be adjudicated in which court system.³⁴¹

Osage citizens knew they had access to legal action against other American Indians and non-tribal members through three separate court systems, but these courts expressed confusion about where their jurisdiction began and ended. Tribal members who committed minor offenses between Native Americans, such as drunkenness, sexual offenses, minor assaults, domestic troubles, and personal property disputes, went to the Osage tribal court. The tribal court levied fines and the equivalent of modern community service. State courts handled all civil matters between Osages and non-tribal members as long as they did not directly address tribal relations, restricted lands, or major crimes, including murder, manslaughter, rape, assault with intent to kill, arson, burglary, and larceny. Federal courts heard cases concerning major crimes and "offenses by non-Indian against Indians." Additionally, if the Secretary of Interior wished to take legal action, the cases were carried out through the Justice Department and the United States District Attorneys. Naturally, this level of complexity created confusion for many and windows of opportunities for countless individuals who rushed to the Osage Reservation during the oil boom.³⁴²

Tribal members watched the crimes tick upward during what John Joseph Mathews called the "most uncivilized, savage period in Oklahoma history with the savages being the whites."³⁴³ One boomtown, originally called Whizbang before changing it to Nelagony, featured

³⁴¹ Lucas, 17, 19; Garrick Bailly in Xavier and Ball; Grove, "Oil and the Osage Murders," 137; Meriam, 17-18.

³⁴² Meriam, 769-770, 16-18, 761; *Federal Indian Law Handbook*, 369, 363, 320, 323; Major Crimes Act of 1885 (18 USC 1153).

³⁴³ John Joseph Mathews in Callahan, 17.

a raucous environment where one could buy liquor for ten dollars a quart, purchase narcotics openly, and for “several hundred dollars” obtain a “hire for murder.” Once oil started generating incredible revenues for the Osages, non-Native oil field workers, hired domestic help, and chauffeurs witnessed tribal members living the lives of wealth and convenience they had dreamed of when they came to the Sooner State. Many of these individuals considered their positions in comparison with the wealthy Osages and resented tribal members. As Sherwood Ball narrated in his documentary, the oil wealth “brought out the greed and resentment in them, but it also brought out the con artists, potlickers, and spongers – unethical people who caught wind of the huge payments being paid out to the Osages, determined to find a way to make a living off of the tribal members.”³⁴⁴

Some individuals simply worked in the oil fields and quickly divested their pockets of their wages, but others had more vicious goals in mind. Henry A. Larson, the Chief Special Officer from the United States Indian Service office in Denver, believed the Osages wealth made “them the target of hundreds, I may say thousands, of unscrupulous white men, who are invariably, furnishing intoxicants to them, day in and day out.” By the height of the oil boom, Osage County residents, white and Native, pleaded for officials to rid the area of undesirable people and past times. They believed “too many pool hall loafers, gamblers, bootleggers, and other parasites,” including “lewd women” operating within “rooming houses” with a “bad reputation,” had been drawn to the Osage Reservation. Due to the amount of money circulating throughout the oil fields, the area also experienced a rapid increase in bank robberies. Five bank robberies and one train heist of the KATY passenger train occurred in 1923 alone. White residents expressed concern for tribal members who became the focus of these immoral

³⁴⁴ Grove, “Oil and the Osage Murders,” 137; Sherwood Ball in Xavier and Ball; Hicks, 74.

characters' attentions, but their requests for a “clean-up” likely focused on their own personal and financial reasons rather than the Osage Nation’s wellbeing. However, the Osage Agency expressed their own concerns and requested authorization from Washington to hire an additional five field men since the Agency only employed four constables to cover four districts consisting of twenty-five square miles. Even before the most productive oil years, the Osage Agency ran on steam when it came to policing the reservation.³⁴⁵

The lack of law enforcement created a tense and hostile environment for the Osages, especially as the second rise of the Ku Klux Klan became ever more present throughout Oklahoma. In 1919, Klan members held a parade during a Liberty Loan event in the Osage County border town of Skiatook. By September 1921, the Klan had an active Klavern within Osage County. With the volatile environment of boomtowns, rapidly expanding oil fields, and the presence of known racists and proud Klansmen, Osages grew increasingly wary of their surroundings. This sense of dread soon gave way to fear as the criminal elements took bolder actions to deprive tribal members of their fairly negotiated and cultivated oil money.³⁴⁶ News of home invasions committed by “a degenerate breed of white men” increased, and many tribal members, like Magella Whitehorn, resorted to hiring bloodhounds from Tulsa handlers to track and locate the criminals who had broken into her home.³⁴⁷

Tribal members naturally began to fear future violent events, especially after many Osages were found murdered in horrific manners. In the case of Helen Tallchief, even death did

³⁴⁵ Smith, *Wahzhazhe*; Henry A Larson, “Federal Suppression of Liquor Traffic Among Indians,” in the *Report of the Thirty-second Annual Lake Mohonk Conference on the Indian and Dependent Peoples*, 1914, 58; “Clean-up is Due,” *Pawhuska Daily Capital*, January 19, 1922; Marriot and Rachlin, 117; Research Notes and Materials: Osage Case, Box 15, File 9, Fred Grove Papers; Pitzer, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, July 29, 1910, n.p.; *Hominy News*, June 1, 1923.

³⁴⁶ Lamsam and Johansen; Research Notes and Materials, Box 15, File 9, Fred Grove Papers; “An Apology for Murder,” *The Independent*, February 20, 1926, n.p.; Larry O’Dell, “Ku Klux Klan,” *The Encyclopedia of Oklahoma History and Culture*, <https://www.okhistory.org/publications/enc/entry.php?entry=KU001>.

³⁴⁷ *Hominy News*, May 20, 1921.

not protect her from the attention of criminals. Helen had passed away on February 25, 1923, at seven years old. Grave robbers noted her elaborate funeral, typical of the Osages at the time, and attempted to breach her coffin by detonating explosives around the gravesite. Fortunately, their efforts were thwarted because Helen's family had secured her coffin in a steel vault encased in concrete. Nevertheless, these events left both Osages and white law-abiding citizens of Osage County "horror-stricken and in fear for their lives."³⁴⁸ Some of "the old Osage thought they were being punished" since they had been tempted to acquire things with their oil royalties rather than adhere to the traditional customs. This belief spread throughout Osage communities as more families lost "at least one family member because of headrights."³⁴⁹ The reports of violence drew the attention of outside parties wishing to aid tribal members. The Secretary of Indian Rights Association traveled to Fairfax to survey the conditions and found "most of the Osages were afraid to venture out after dark. The local judge who held the inquests was so affected by the atmosphere of the place that before talking with his visitor, he took him into a back room and fastened the door, seeing to it that the windows were well closed."³⁵⁰

Accounts proliferated of Osages keeping their homes lighted at all hours of the day in addition to adding string lights to the exteriors of their homes and surrounding their properties "as protection against the stealthy approach of a grim specter – an unseen hand – that has laid a blight upon the Osage land and has converted the broad acres, which other tribes enviously regard as a semi-paradise, into a Golgotha and field of dead men's skulls."³⁵¹ These lights became known as "fraid lights" and became a visible reminder of the death, violence, and fear

³⁴⁸ Research Notes and Materials, Box 15, File 9, Fred Grove Papers; File No. I. C. #62-5033, Box 15, File 9, Ibid.

³⁴⁹ Louis Burns in Xavier and Ball.

³⁵⁰ 44th Annual Report, Board of the Directors of the Indian Rights Association, 1926, Research Notes, Box 15, File 9, Fred Grove Papers.

³⁵¹ Alvin Rucker, "Chief Fred Lookout 67 in 1929," *Daily Oklahoman*, January 6, 1929.

that had permeated the Osage Nation. Some Osage families took further measures like acquiring guard dogs and hiring bodyguards to protect their loved ones. Eleanor Chesewalla remembered her cousins frequently fished in the pond near their home with a family friend. Only later did they learn the man “was their bodyguard” hired by their parents to protect them.³⁵²

Many tribal members remained on the Osage Reservation with their families and friends, despite the turmoil of the oil boom and the threat of violence. Traveling for leisure remained a popular choice for the wealthy Osages, but few chose to permanently reside away from their homelands prior to the 1920s. However, some began to consider relocating to escape the increase of violent acts, murders, and theft of property, money, and headrights. Even though local law enforcement, Osage Agency employees, the Tribal Council, and eventually the Bureau of Investigations actively investigated and took measures to stop the violence, the Osage Nation remained a hotbed of criminal activity and tribal members continued to feel unsafe. Edgar McCarthy, a former Carlisle student and a Councilman at Hominy, desired to create a safe “colony” for his people. He settled on approximately “half a million acres in southwest Texas” near San Antonio. It is unclear how many individuals expressed interest in joining McCarthy in Texas, nor is it clear if the settlement even underwent construction. What is significant about this anecdote is that tribal members did not sit idle as victims of the so-called “Reign of Terror.” One newspaper described the Osages as “maintain[ing] steadfast confidence in the power of the government to right his wrongs and restore him to his former tranquil life,” but this is practically the antithesis of what Osages did. This statement further emphasizes the “heroic” efforts of the

³⁵² Research notes, Box 15, File 9, Fred Grove Papers; “Trouble comes to the Best of Families and Towns – Fairfax, Being of the Best Will Quickly Recover,” *Osage Chief* (Fairfax, OK), March 16, 1923; Grove, “Oil and Osage Murders,” 137; Eleanor Chesewalla in Xavier and Ball.

Bureau of Investigations agents and the formation of the FBI and downplays the Osages' actions in their own narrative.³⁵³

Tribal members continually took steps to address the violence by requesting assistance, retaining attorneys, dedicating funding for investigations, using off-reservation boarding schools as a safe place for their children, and even proposing alternative living arrangements to safeguard their people. It is also important to note that despite the tragedies, crimes, and fear that invaded the Osage Reservation, tribal members did not stop gathering for tribal and family activities.³⁵⁴ Herman Lookout remembered even while growing up in a tumultuous period of Osage history, “there were quite positive times going on as well. I think [about] every day picnics, trips to Woolaroc, fishing trips, stick ball...” Osage culture and family activities supported the tribe through this difficult time – family events and the yearly I’n-Lon-Shka dances strengthened the Osage Nation’s internal relational web even as they experienced continued attacks against individuals, their wealth, and their sovereignty.³⁵⁵

At the height of the oil boom, non-tribal members often held two opposing views of the Osages: they were victims of various schemes and malicious people, or they caroused around and deserved to be targeted by whites since they had received “such large payments without any effort whatever on their part.” Even while Osages advocated for outside support and worked to maintain their relational web among tribal members, the average American viewed them as prone to “‘fast’ living” and frequently associated “with people of low repute and character.” The Osage Superintendent believed this type of “risky” behavior placed them in a position to be “the

³⁵³ Glasscock, 268; Grove, “Oil and the Osage Murders,” 137; Edgar McCarthy (Me-Ih-Gah-Hah) Student File, Carlisle Indian School, Box 25, File 1161, RG 75, NARA accessed through http://carlisleindian.dickinson.edu/student_files/edgar-mccarthy-me-ih-gah-hah-student-file; “Flags Placed over Each Osage Grave,” *Associated Press*, June 12, 1926.

³⁵⁴ Boutwell, 70, 95-96; Eleanor Chesewalla in Xavier and Ball.

³⁵⁵ Herman Lookout in Xavier and Ball.

victims of gamblers and their marriage and divorce escapades often are the scandal of the community.” In the same report, Superintendent Wright believed many of the Osages new “friends” surrounded them in order to “live off of them in various ways and cater to their wants and gratify their desires” until they have none of their oil money left. No matter the view, whether the Osages were victims of fraud or going on spending sprees and losing their money on their own, the federal government believed the best way to manage the situation among the Osages was by restricting their money rather than pursuing the criminals at the heart of the problem.³⁵⁶

Even though many “incompetent” tribal members only received a portion of their oil royalties, non-tribal members who flocked to the Osage Nation still desired any money they could obtain. Even the reduced payment of \$1,000 per quarter was drastically more than a roughneck could earn in a year, so jealous whites designed elaborate schemes to obtain Osage money. Many whites used confusion to convince Osages to sign paperwork or pay for items multiple times. Superintendent Wright documented many times when “paid notes frequently are held, uncanceled [sic], and presented again for payment.” A banker who served as a guardian made a deal with a mechanic, so any time one of his “incompetent” wards brought in their car for repair, he would issue blank checks so, “the mechanic could charge any amount his heart desired as long as he played the game.” Many guardians and whites stole untold amounts of Osage money, using language barriers, deceptive documentation, and other deceitful tactics. The damage was heightened whenever the criminals used alcohol to their advantage and to the detriment of tribal members.³⁵⁷

³⁵⁶ Wright, “Annual Report of the Osage Indian Agency, June 30, 1922,” n.p.; Harmon, 171-208.

³⁵⁷ Carroll, “Annual Report of the Osage Indian School, August 25, 1913,” n.p.; Sherwood Ball in Ball and Xavier.

Alcohol had always been prohibited within Indian Territory, but after Statehood and particularly after allotment, the sale and consumption of alcohol consumption became an almost intractable problem throughout Indian Country. Since the Osages owned their reservation, Congress declared Osage County “Indian Country” in 1917 and prohibited the sale and consumption of alcohol throughout the area, but that did not stop the demand by both tribal members and oil field workers. By 1920, whiskey sold for ten dollars a quart and up to forty dollars per gallon throughout the reservation. Bootleggers capitalized on the high profits and the steady demand for alcohol by running liquor into the Osage Reservation despite high fines and the threat of jail time. Others opted for running stills in rural portions of the Osage Reservation. Henry Grammar, a notorious criminal and a known associate of William Hale, began to distill liquor in such quantities that he required a large team of “employees” who operated the still around the clock using his “personal power plant” to light the area.³⁵⁸

The presence of oil boomtowns provided tribal members with easy access to alcohol, and oil workers quickly realized they could take advantage of inebriated tribal members. The most notorious boomtowns of Cleveland, Blackburn, Ralston, Ponca, and Wynona featured dense populations with limited local governments driven by extreme jealousy and greed for Native

³⁵⁸ A popular alcohol of the time was known as “Jake” consisted of “Jamaica ginger” a medicine that had been used since the 1860s. The predominant known side effect was intoxication due to the mixture containing up to “80% ethanol by weight.” It served as a convenient substitute for alcohol since it was “equivalent of four shots of whiskey” for fifty cents per two-ounce bottles. However, like many alcohol substitutes during Prohibition, scientists and doctors soon found that Jake caused severe neurological disorders due to presence of triorthocresyl phosphate, which resulted in lower limb paralysis. This condition, for some irreversible, resulted in “a distinctive gait necessitated by a foot drop, in which the forward leg is lifted high to allow the foot to clear the ground” called “Jake Walk.” While many Osages were likely affected by this, Jake quickly became a problem across the United States and became a popular subject for scientific analysis and frequently documented via popular jazz tunes of the time, such as the “Jake Liquor Blues.” Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 14, 1919,” n.p.; Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 27, 1920,” n.p.; Leon Gussow, “The Jake Walk and Limber Trouble: A Toxicology Epidemic,” *Emergency Medicine News* 26.10 (October 2004), 48. Chap. 146, March 2, 1917, 39 Stat. L. 969 in Barney, 68; Research Notes and Materials, Box 15, File 9, Fred Grove Papers; Larson, “Federal Suppression of Liquor Traffic Among Indians,” 58; *Oklahoma Times*, June 4, 1921; File No. I. C. #62-5033, Fred Grove Papers.

wealth. Around the quarterly payments, whites made it known they had copious stores of alcohol in the hopes they might entice tribal members to imbibe until they reached a state of drunkenness while their pockets had recently been filled with oil money. Stories soon ran rampant of drunken Osages who “whoop[ed] from a side street bar” and accounts from a local undertaker who believed “there’s not ten Osage boys – I’m talking about fullbloods mainly – left in town between twenty & twenty-eight” due to the number of alcohol related deaths. However, many Osages refused alcohol since they saw how whites used it as a tool to steal from tribal members. When George Vaux traveled to the Osage reservation in 1916, he had been warned “the typical Osage Indian was a drunken Indian and that, wherever one went, they must expect to see drunken Indians lying around the roads and streets,” but while he was there he saw one Native man who was tipsy but “not by any means drunk” and the only individual he witnessed being arrested was a white man. By emphasizing the “drunken Indian” myth, even if some cases were confirmed, criminals shifted the blame and responsibility of their misdeeds back onto the shoulders of tribal members.³⁵⁹

As oil money continued to pour into Osage accounts, many criminals began to secure life insurance policies for individual tribal members with themselves named as the beneficiaries. Many of these policies were signed by the individual in a drunken state. Once the insurance policy matured, criminals frequently used poisoned whiskey to kill the targeted individual to claim the insurance money. Soon after tribal member Joe Bates died after drinking poisoned whiskey, the notorious William Hale “claimed he bought Joe’s land for a dollar and filed a deed

³⁵⁹ Anderson, “Frank Frantz,” 131; Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 27, 1920,” n.p.; “Payment Day in Fairfax,” Story Idea Notebook, Box 15, File 7, Fred Grove Papers; “Indian Country Undertaker,” Ibid.; Wright, “Annual Report of the Osage Indian Agency, June 30, 1922,” n.p.; Carroll, “Annual Report of the Osage Indian School, August 25, 1913,” n.p.; Barnard, “The Crisis in Oklahoma Indian Affairs,” 69, 74-75; Carroll, “Annual Report of Osage School and Agency, 1914,” n.p.

at the court house.” Unfortunately, Bates’s descendants never did see their land returned to them. Throughout the early 1920s, dozens of Osages died under suspicious circumstances and suspected alcohol poisonings, including those like William U. Bennett, who was not known to drink, Joe Yellow Horse, who died unexpectedly “frothing at the mouth,” and many children. As a result of limited autopsies and rudimentary “forensic science,” Osages warned family members, “Don’t eat anything when you have somebody in the house. Don’t drink anything.”³⁶⁰

In addition to bringing alcohol into the reservation, criminals introduced narcotics to the Osages. Waltina Red Corn remembered some Osages who “were on the needle...their veins looked like incisions on their feet, and on their hands, and on their arms where they had shot themselves directly in the veins.” Area doctors also provided tribal members with “intravenous drugs for anything that ailed them.” Some criminals used the help of area doctors to drug and kill Osages who had not succumbed to other means. Bureau of Investigations agents reported criminals commonly killed Osages through a toxic combination of alcohol and narcotics. Once they provided copious amounts of alcohol to an individual, the criminals brought them to a doctor who would declare the tribal member intoxicated. The doctor and the criminals would then administer “fluids,” typically “an enormous amount of morphine under the armpit,” which resulted in the tribal member’s death. However, having secured the diagnosis of intoxication prior to their death meant that insurance companies and the average observer did not immediately assume the death occurred under suspicious circumstances. While some physicians may not have been in the room as “gang members” administered the fatal dose of narcotics, some certainly capitalized from Osage money through overcharging for basic services and

³⁶⁰ Sherwood Ball in Ball and Xavier; “Court Attempts to Learn Cause, Indian Found Dead in Bed causes Court of Inquiry Be Called to Investigate, *Pawhuska Daily Capital*, March 2, 1922; Research Notes, Box 15, File 7, Fred Grove Papers; Whitehead, 115; Kathryn Red Corn in Ball and Xavier.

recommending unnecessary treatments and operations. Tribal members frequently found themselves not able to trust anyone but those that had been in their relational web long before the oil boom.³⁶¹

Osages and their white neighbors readily attested to the rampant crime and fraud that permeated their lives, but finding enough evidence to convict the perpetrators became exceedingly difficult. Firstly, employing credible and unbiased investigators to locate criminals or build a legal case against known parties was exceedingly difficult. The Osage Nation hired private investigators to investigate the suspicious murders of tribal members before the Bureau of Investigators agreed to take the case. Contemporaries and subsequent authors believe William Hale or his criminal associates bribed these investigators as they returned to the Tribal Council with no firm evidence. To make matters worse, local officials often refused to assist the Osage Nation, and, in several cases, they actively obstructed justice. During the investigation of Anna Brown's murder, three policemen and one undertaker performed a field autopsy on the body, but observers stated they did so in the most rudimentary manner that decidedly destroyed evidence. Even after a subsequent autopsy conducted in a lab, no conclusive evidence was presented to prosecutors. Forensics and evidence collection remained rudimentary for several more decades, but during the trials of Hale and Burkhart, examiners testified that local investigators certainly could have done more to protect the evidence that remained.³⁶²

Agency employees helped tribal members as much as they could, but their focus remained on governing the finances and morality of the Osage Nation. Coupled with the mountains of correspondence, paperwork, and legal contracts that came into and were generated

³⁶¹ Waltina Red Corn in Ball and Xavier; Sherwood Ball, *Ibid.*; Grove, "Oil and the Osage Murders," 136-137; File No. I. C. #62-5033, Box 15, File 9, Fred Grove Papers; *Fairfax Chief*, August 31, 1923; Baird, 76-78.

³⁶² FBI case files, August 18, 1924; Grann, 19, 22, 38; Hogan, 60; McAuliffe, 123, 256.

from the Osage Agency, employees rarely left the office. As a result, it is unclear how many criminals resided among the Osages, how many transient workers committed crimes only to leave the reservation immediately thereafter, the causation of deaths among tribal members between the ages of twenty-one and forty, or the number of schemes and plots to steal Osage money, land, headrights were perpetuated within the reservation. Due to the intimidation, bribery, and fear of criminal enterprises, tribal members who fell victim to these schemes may have related the incidents that occurred but withheld names of the perpetrators, and law-abiding whites did not want to get involved as they feared retribution. Even though it may be unclear how many criminals targeted Osages or how many crimes were committed, the rumors, fear, and the oral histories of tribal members must be taken into account and considered as fact, especially since the known criminal cases substantiate these claims.³⁶³

Price-gouging, swindling, theft, violence, and the introduction of alcohol and controlled substances rattled the Osage Nation and the well-maintained relational web between tribal members and their allies. However, these offenses did not stop some whites from attempting another route to obtain Osage oil money. For them, marrying into the tribe became their last resort. Marriages naturally fit within the bounds of the Osages' relational web, but this framework was challenged by spouses motivated solely by greed. Much like William Hale's scheme to inherit Osage headrights through marriage, death, and inheritance, other criminals used marriages as a convenient way to steal money and land away from tribal members. Mrs. John Kenney, a white woman who married an Osage man, explained how some white guardians hired prostitutes to seduce and marry "young Indian boys," get a quick divorce, and "then sue the

³⁶³ On the value of rumors and the validity of using gossip, rumor, and fear among indigenous communities in historical studies, see Luise White, *Speaking with Vampires: Rumor and History in Colonial Africa* (Oakland: University of California Press, 2000). Kathryn Red Corn in Ball and Xavier.

boys for alimony with a secret agreement with the guardians who would split the alimony with the prostitute.” Other white women acted as a diversion or bait while criminals ransacked homes or planned for the murder, as in the case of Saucy Calf, who was murdered the day before he agreed to meet his “lady-love” at the train station. In some cases, the white wives of recently deceased Osage men received intense scrutiny, such as Hady, the widow of Charles Whitehorn. She had been married three times and immediately married a white man after Whitehorn’s death. Although the series of marriages raised suspicion among agency employees, she was ultimately released due to a lack of evidence. While many inter-racial marriages among Osages were loving and mutually beneficial, others were simply of convenience or purely for financial gain.³⁶⁴

During the oil boom, Osage Agency employees and tribal members received multiple requests from white citizens to help locate potential spouses.³⁶⁵ Arthur Bonnicastle, then Principal Chief, submitted a letter from an unidentified white woman who wanted to marry a tribal member to the *Pawhuska Daily Capital*. The thirty-year-old widow with two sons asked “if he knew of a rich Indian who wished to marry a white woman. She weighed 188 [pounds], had blonde hair, blue eyes, lived in Oregon. ‘Will you please,’ she continued, ‘tell the richest Indian you know of, and he will find me as good and true as any human being can be.’” Agency employees received similar letters as if people treated the government employees as a matchmaking service. Others sent pointed letters wanting to know precisely what the legal statutes were regarding white women marrying a member of the Osage Nation. R. H. Hagelin, a lawyer from Lincoln, Nebraska, wrote to the Commissioner of Indian Affairs, “In the event of

³⁶⁴ Sherwood Ball in Ball and Xavier; Lamb, 87.

³⁶⁵ Osage employees also received requests from whites who insisted they had Osage ancestors or had recently obtained “positive proof” that they had a specified amount of “blood relation” to the tribe. One such case came from a Mr. Best who had three witnesses ready to testify on his behalf and was more than ready to fill out any “special blanks or forms” so he could become a member of the Osage Nation. R. B. Auxier to Frank Frantz, n.d., Box 1, RG 75, Records of the Osage Agency, Records of the Office of the Superintendent, NARA-FW (hereafter referred to as the Office of the Superintendent, NARA-FW).

the death of the Indian is the widow (a white woman) entitled to inherit from his estate and if so to what extent?" It is not clear whom the lawyer inquired for or what came of the situation, but the fact that letters of this nature were common reveals a much larger trend of white citizens deliberately trying to insert themselves into the Osages' relational web. White men married Osage women at an equal rate, but it seems as though marriage was the only means white women could attempt to secure Osage money for themselves while white men explored criminal alternatives.³⁶⁶

While whites schemed and desperately tried to find inroads to access Osage oil money or to steal that money away from tribal members, the Osage Nation "became gravely concerned at the passing of Osage wealth out of the tribe by the process of inheritance." Traditionally, Osage couples married according to custom where the families negotiated a dowry and held an elaborate ceremony and feasts. However, with more intermarriages, the legal status of spouses and those who inherited money or land became clouded when the couple could not produce a marriage license. Even though the local courts and the federal government had recognized tribal marriages, the racism present in Oklahoma did not instill Osages with confidence that their marriages would be properly recognized. As a result, tribal members started obtaining marriage licenses and court ruled divorces so they could limit any "complications that follow in the determination of heirs" that often occurred in the case of traditional marriages. Tribal leaders encouraged Osages to work within the American legal system to protect themselves, the land, their headrights, and their relational web from those desiring to steal all they could from the

³⁶⁶ White men who married Osage women for love rather than personal gain were often derided by area whites who called them "squawmen." Research Notes, Box 15, File 7, Fred Grove Papers. Correspondence to Arthur Bonnicastle printed in *Pawhuska Daily Capital*, December 22, 1921, Box 15, File 9, Fred Grove Papers; Wilson, "Chief Fred Lookout," 50; R. H. Hagelin to Commissioner of Indian Affairs, June 11, 1927, Box 891, File 29391-27-350, Central Classified Files, NARA-DC.

tribe. Even employees of the Osage Agency recommended tribal members make all their arrangements in writing and to have a witness present at the time of signing. Additionally, obtaining legal marriage licenses in addition to traditional marriage ceremonies proved to be an easy solution for clarifying any issues in local courts, particularly when it came to probate cases. However, a much more complex scenario presented itself concerning inheritance and wills.³⁶⁷

Even though the Osage Nation had been declared the wealthiest nation in the world in the 1890s, the United States Office of Indian Affairs had no legal statutes governing Osages' abilities to write their own wills. The Osage Tribal Council had stipulated some inheritance laws during their allotment negotiations because they understood the wealth earned from their leasing economy and tribal members at large needed to be protected from potential fraud and graft. The Tribal Council passed a law, subsequently passed by Congress with the Osage Allotment Act, stating if a tribal member passed away without making a will, the tribal court would appoint an administrator who would then appoint heirs. Surviving spouses and children became automatic recipients, but if said spouse remarried and died without a will, their estate went to their children as a means of protecting tribal families from dispersing wealth outside the Osage Nation. Congress passed an additional law in 1912 stating Osage adults who had their certificate of competency could legally draft their own wills. Either before or within one year after a tribal member's death, the Secretary of Interior reviewed the will to verify its validity prior to the disbursement of the estate or proceeding to probate court in case of contesting relatives. By the time the Secretary of Interior even saw an individual will, it had already made its way through

³⁶⁷ *Federal Indian Law Handbook*, 1034; Meriam, 760; Wright, "Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 15, 1916," n.p.; Pitzer, "Annual Report of the Osage Indian School, 1911," n.p.; Smith, *Big Bluestem*, 193.

the hands of eleven examiners and attorneys within the Probate Division and the Commissioner of Indian Affairs. This lengthy review process ensured all pertinent evidence had been collected, regulations regarding mineral rights and restricted lands had been followed, and no fraud had occurred.³⁶⁸

Osage allotments became a crucial part of any inheritance since the tribe had allotted all their lands between tribal members. The lands could be physically divided between heirs, or it could be sold as a lot and the funds dispersed between concerned parties. Some recommended simply dividing the lands evenly unless one or more heirs were minors or deemed “incompetent.” This conservative approach would have aided the Osages in keeping more lands under their control and prevented what Meriam referred to as a future “generation of landless, almost penniless, unadjusted Indians,” but the federal government did not act upon this suggestion. However, Congress did pass additional legislation placing land inherited by “incompetent” Indians in a protected, inalienable state.³⁶⁹

Due to the increase of money during the oil boom, probate cases soon became a standard component of Osage life. County courts oversaw probate affairs, but the Secretary of Interior or Osage Agency employees were still heavily involved and could step in to investigate if needed. Cases with minor heirs proved to be the trickiest since guardians had to be appointed and any money inherited placed in an Individual Indian Money account held by the Treasury Department. Even without minor heirs involved, probate cases took an exceedingly long time and were quite expensive. The first step in a probate case included an examination of the case and approval to

³⁶⁸ “An Act Relating to Estates and Administrators,” Fitzpatrick, 64-65; “Osage Allotment Act,” June 28, 1906, 34 Stat. 539 in Barney, 51; *Federal Indian Law Handbook*, 1046-1047, 79-80, 1038-1039, 76-77; Chap. 83, April 18, 1912, 37 Stat. L. 86 in Barney, 63; Meriam, 788.

³⁶⁹ Chap. 83, April 18, 1912, 37 Stat. L. 86 in Barney, 62; Meriam, 40-41; Chap. 359, February 27, 1925, 43 Stat. L. 1008 in Barney, 80.

proceed issued by the seven individuals, including law clerks, the probate division, the Commissioner of Indian Affairs, the Assistant Secretary of the Interior, and finally, the Secretary of Interior. Once approved by federal employees, the probate proceedings could begin, but they often faltered as “seldom will the necessary parties and witnesses be present at the time set.” This was partially due to individuals residing in remote areas, so hearings were held in fits and starts until everyone required to be present provided their testimony. Even when people arrived at the first hearing scheduled, language barriers frequently became a challenge. This problem emerged repeatedly in probate cases as the examiner and the individual testifying struggle to understand the simplest of meanings for pages of written testimony. The complicated nature of probate hearings necessitated constant attention from the Tribal Attorney employed at the Osage Agency. As the 1920s commenced, probate cases continued, which created a backlog within the local courts. In 1921, seventy-two probate cases were slated to be heard, but the court had settled only twenty-one within the year. By 1923, eighty-five cases languished in probate courts. In the case of Rita Smith, one of Hale’s victims, her estate remained in probate court from 1923 to 1929. While the four criminal trials of Hale and his associates complicated Rita’s probate hearings significantly, the case of Roy James started in 1924 and did not conclude until 1931. Roy James’s death occurred under suspicious circumstances, but even without the complication of a criminal case, the estate was not settled for a shocking seven years while the estate paid for the court and lawyer fees for all parties.³⁷⁰

³⁷⁰ Chap. 83, April 18, 1912, 37 Stat. L 86 in Barney, 60-62; Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 15, 1916,” n.p.; *Federal Indian Law Handbook*, 1033, 1046, 1038; Meriam, 789-791; Carroll, “Annual Report of Osage School and Agency, 1914,” n.p.; Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, August 26, 1918,” n.p.; Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, July 29, 1921,” n.p.; Wright, “Annual Report of the Osage Indian Agency, Pawhuska, Oklahoma, June 30, 1923,” n.d.; Will of Rita Smith, Box 925, File 38011-1923-351, Central Classified Files, NARA-DC; Roy James, Box 930, File 34357-1924-351, Ibid.

The death and probate of Roy James warrants special attention since it highlights the confusion that persisted in many cases during the height of the oil boom. Roy James died on February 18, 1924, under suspicious circumstances, and even though many considered James an “inveterate drunkard,” Superintendent George Wright suspected foul play, which was confirmed when the “the undertaker advise[d] me that said Roy James was poisoned.”³⁷¹ James had recently married a white woman, Josephine Walker, who had just been widowed by another Osage man, Lawrence Gray. Because Gray died just hours after Walker left his bedside in a Colorado Springs hospital, she was cast in immediate suspicion. Wright knew of “two men connected with the Department of Justice, who are investigating murders of Osage Indians,” and requested one be temporarily assigned to look into the deaths of James and Gray. After Commissioner Burke contacted the Acting Director of Bureau of Investigation, J. Edgar Hoover assured him the matter would be referred “to our Oklahoma City office and it will be given immediate and thorough attention.” The Bureau of Investigations determined not to examine the deaths of Gray or James further, but it is not entirely clear why. Agents involved in the infamous Hale case investigated for a period of three years and only found enough evidence to charge Hale and his criminal associates for the murder of Henry Roan even though they believed they had been involved in at least two dozen murders among the Osages. It is entirely possible that the difficulty of finding evidence and credible witnesses in their investigation to that point resulted in the agents’ unwillingness to divide their attention to yet another confusing case. It is a possibility federal agents preferred to focus on a classic villain, a crime ring run by white men, rather than investigate the often assumed “innocent” white woman. The fact remains that in the

³⁷¹ Statement before the Secretary of the Interior, Estate and Probate of the Will of Roy James, March 20, 1924, Box 930, File 34357-1924-351, Central Classified Files, NARA-DC; Chas. H. Burke to J. George Wright, July 25, 1924, Ibid.

early twentieth century, many did not believe women could possibly be responsible for criminal activity, especially murder.³⁷²

Throughout the probate hearings, Roy James's life was described in a variety of ways. In some accounts, he had an "irresponsible character," he was "user of drugs and all kins [sic] of intoxicating liquors," had spent time in an "insane asylum," and used "morphine or dope" or "some kind of tablets" when he could not obtain whiskey. To others, James liked to imbibe in alcohol but was of "disposing mind and memory" when he completed his will and whenever he went to visit his niece Grace and did not do "dope."³⁷³ Even as supportive whites tried to attest to Roy James's credibility, their testimony dripped with racist comments. For example, even though James went to the Osage Reservation boarding school and Chilocco when asked if he was intelligent, his lawyer, F. O. Yarborough, stated, "Well, apparently, I think he was as far as Indians go."³⁷⁴ James led a complicated and at times contradictory life, but when he applied for his certificate of competency, the Office of Indian Affairs believed he was more than capable of handling his own affairs. He lived his life according to his own desires and values, handling his money how he saw fit, marrying multiple women, and preparing for the future by drafting a will. Despite this, towards the end of his life, he started drinking more, and the Osage Agency declared him "incompetent," assigning Joseph D. Mitchell as his guardian. James vehemently

³⁷² On the difficulty in obtaining evidence and willing witnesses, see Grann's, *Killers of the Flower Moon* and McAuffie's, *Bloodland*. On the reluctance of believing white middle and upper class white women could or would commit crimes, see Elaine S. Abelson's *When Ladies Go A-Thieving: Middle-Class Shoplifters in the Victorian Department Store* (New York: Oxford University Press, 1989). George Wright to Chas. Burke, July 16, 1924, Box 890, File 54487-1924-350, Central Classified Files, NARA-DC; Chas. Burke to J. E. Hoover, July 29, 1924, Ibid.; J. E. Hoover to Chas. Burke, August 2, 1924, Ibid.

³⁷³ J. Geo. Wright to Commissioner of Indian Affairs, July 16, 1924, Box 930, File 34357-1924-351, Central Classified Files, NARA-DC; Eva Bean testimony in the Estate and Probate of the Will of Roy James, May 5, 1924, Ibid; A. G. Matteson testimony in the Estate and Probate of the Will of Roy James, undated, Ibid.; Charlie Hammond testimony in the Estate and Probate of the Will of Roy James, March 20, 1924, Ibid.; Rose Maker testimony in the Estate and Probate of the Will of Roy James, March 5, 1924, Ibid.

³⁷⁴ Rose Maker testimony in the Estate and Probate of the Will of Roy James, March 5, 1924, Box 930, File 34357-1924-351, Central Classified Files, NARA-DC; F. O. Yarborough testimony in the Estate and Probate of the Will of Roy James, May 5, 1924, Ibid.

protested this decision and issued an appeal before his death but passed away before any proceedings could begin.³⁷⁵

Soon after James's death, the Secretary of Interior disapproved the will he had drawn up with the help of W. H. Bingham. This meant the estate went to probate court to determine rightful heirs. In many probate cases involving Osage oil money, "long lost relatives" surfaced to claim their "rightful inheritance." This common ploy did not seem to be an issue for the James estate, rather the most essential question for the court to determine revolved around which spouse was the rightful heir. James had no children; his only two offspring died as "little children," and his parents had died prior to his death, but he did have two half-siblings, Louis and Mary, a niece named Nettie, three ex-wives, and his current spouse.³⁷⁶ Even though two wives claimed to be legitimately married to Roy James, the probate court listened to days of testimony to determine who would inherit his estate. James's first wife, Laura James, did not petition to be considered since she had filed for divorce due to his drunkenness and "extreme cruelty." The court granted their divorce on November 10, 1914, leaving Roy James free to marry his second wife, Eva Bean in 1916. Eva and Roy fell in love and married quickly in a court of law prior to telling their families, which differed radically from traditional Osage wedding customs. As Eva Bean recounted afterward, "he took me to their folks; we had an

³⁷⁵ Statement before the Secretary of the Interior, Estate and Probate of the Will of Roy James, March 20, 1924 in Box 930, File 34357-1924-351, Central Classified Files, NARA-DC; W. H. Bingham testimony in the Estate and Probate of the Will of Roy James, February 22, 1924, Ibid.; H. C. Hargis testimony in the Estate and Probate of the Will of Roy James, February 22, 1924, Ibid.; Brief on the Part of Eva Bean, Osage Allottee No. 455, Contestant, on the Matter of the Approval of Said Will, prepared by Frank E. Ransdell, April 7, 1924, Ibid.

³⁷⁶ W. H. Bingham testimony in the Estate and Probate of the Will of Roy James, February 22, 1924, Box 930, File 34357-1924-351, Central Classified Files, NARA-DC; J. Geo. Wright to Commissioner of Indian Affairs, July 16, 1924, Ibid.; Mary James testimony in the Estate and Probate of the Will of Roy James, February 22, 1924, Ibid.; Statement before the Secretary of the Interior, Estate and Probate of the Will of Roy James, March 20, 1924, Ibid.; Chas. H. Burke to Secretary of Interior, June 18, 1924, Ibid.

Indian ceremony the way Indians marry.”³⁷⁷ They traveled to Kansas City for their honeymoon, but things quickly went south when James got drunk and lost the money they had just gotten from the quarterly oil payment. Eva was livid and decided to return to the reservation, telling him, “You wanted me and you got me, now if you can’t behalf [sic] yourself I am going home; he was drunk, I said if you think you can behave yourself you can come back with me.” James begged Eva not to leave him, but she returned to the Reservation stating, “I would go back to him if he quit drinking.” Eva never filed for divorce or became involved with another man because “I promised I would not marry so long as he lived, so I didn’t. I guess he married.” In fact, Roy married twice more.³⁷⁸

James’s third marriage to a white woman named Nellie Newton ended in divorce, but as it turned out, the marriage was not legal since Nellie had not divorced her previous husband. His final marriage was to an older white woman named Josephine Walker on June 16, 1922. By the accounts of James’s friends and family, the marriage was “...nothing short of a kidnapping and a marriage ceremony performed under duress.”³⁷⁹ Josephine was fifty-five years old, had been married twice before, and had four grown children, while Roy was thirty-seven years old but, as she described, “getting pretty gray.” Tribal members suspected Walker married James for his money since the couple seemed like an odd match. Walker met James when he was married to

³⁷⁷ Mary James testimony in the Estate and Probate of the Will of Roy James, February 22, 1924, Box 930, File 34357-1924-351, Central Classified Files, NARA-DC; Osage County District Court Decree, *Laura James vs. Roy James*, Exhibit B in Roy James Probate case, 1924, Ibid.; Eva Bean testimony in the Estate and Probate of the Will of Roy James, May 5, 1924, Ibid.; Florence Big Eagle testimony, Estate and Probate of the Will of Roy James, May 5, 1924, Ibid.

³⁷⁸ Eva Bean testimony in the Estate and Probate of the Will of Roy James, May 5, 1924, Box 930, File 34357-1924-351, Central Classified Files, NARA-DC; Mary James testimony in the Estate and Probate of the Will of Roy James, February 22, 1924, Ibid.

³⁷⁹ Josephine James testimony, Estate and Probate of the Will of Roy James, March 20, 1924, Box 930, File 34357-1924-351, Central Classified Files, NARA-DC; P. P. Souter testimony, Estate and Probate of the Will of Roy James, May 5, 1924, Ibid.; Josephine James testimony in the Estate and Probate of the Will of Roy James, April 25, 1924, Ibid.; J. Geo. Wright to Commissioner of Indian Affairs, July 16, 1924, Ibid.

Nellie Newton since they had roomed together at a boarding house. Roy's friends and family suspected her as having something to do with his death since she encouraged him to make a will, was his sole beneficiary to the exclusion of his half-siblings and was present in the office at the time he signed the document. However, the most concerning fact about Josephine Walker was that her second husband, Lawrence Gray, died suddenly after receiving a short visit from her. Nonplussed by the news of her husband's death, Walker married Roy James just days afterward.³⁸⁰ Despite the clear circumstantial evidence that suggested Josephine Walker had designed to marry two Osage men, separate them from their families and inherit their entire estates, the court's attention remained fixed on Eva Bean and her actions.

Josephine Walker refuted claims she was white but instead a non-enrolled member of the Cherokee tribe, the court acted on the assumption she was white due to her physical appearance. Walker may or may not have had Native ancestry, but it is clear she tried to establish a relationship with a Native group beyond that of marriage to prove she was not interested in marrying into the Osage Tribe solely for money. However, Eva Bean, an enrolled member of the Osage Nation with her own allotment and headright, received constant disdainful treatment and outright ridicule during the court proceedings due to her Osage lineage. Bean spent a considerable amount of time on the stand answering questions of the most personal nature. Her friends, family, and even community members served as witnesses and subjectively testified to Bean's sexual relationships with several men. Lawyers treated Bean's indigeneity as a license to ask questions that would have been considered inappropriate if asked of white women. White

³⁸⁰ Josephine James testimony in the Estate and Probate of the Will of Roy James, April 25, 1924, Box 930, File 34357-1924-351, Central Classified Files, NARA-DC; J. Geo. Wright to Commissioner of Indian Affairs, July 16, 1924, *Ibid.*; Chas. H. Burke to Secretary of Interior, June 18, 1924, *Ibid.*; F. O. Yarborough testimony in the Estate and Probate of the Will of Roy James, May 5, 1924, *Ibid.*; W. H. Bingham testimony in the Estate and Probate of the Will of Roy James, February 22, 1924, *Ibid.*; H. C. Hargis testimony in the Estate and Probate of the Will of Roy James, February 22, 1924, *Ibid.*

superiority and racism against African American and Native American women informed this opinion, as most whites viewed them as capable of hard labor and possessing a more vigorous constitution than “proper” white women. This was supported by Office of Indian Affairs employees, like Elijah Sells, who remarked Osage women did the majority of the “drudgery” and manual labor.³⁸¹

The majority of testimony concerning Bean focused on her first marriage to Tom Carson. Bean’s father Charles Me-She-Tsa-He and Carson’s half-brother Charles Wah-Hre-She arranged the marriage without either party’s consent, and neither saw one another as their spouse. To both Carson and Bean, the marriage was “pretended” and was “null and void and is of no effect...there had never been a legal marriage between them.”³⁸² Bean attended the ceremony but returned home immediately afterward and refused to live with Carson or to consummate the marriage despite the pleas of her father and aunt. Regardless of similar testimony from Bean, her sister, and many others, attorneys proceeded to ask detailed questions about sleeping arrangements between Bean and Carson, such as, did they share a room, did they share a bed, how many times did they sleep together, did they do more than sleep side by side, and even hand-drawn diagrams of homes and identified sleeping arrangements were submitted as exhibits. The degrading line of questioning was not stopped by anyone in the proceedings, likely because they felt like Eva Bean could handle the assaults on her integrity and privacy since she did not

³⁸¹ For additional information on views of African American female slaves and their ability to work in extreme conditions and under duress see, Jennifer Morgan, *Laboring Women: Reproduction and Gender in New World Slavery* (Philadelphia: University of Pennsylvania Press, 2004). Sells, “Southern Superintendency, No. 86, Lawrence, Kansas, October 16, 1865,” 258.

³⁸² Josephine James testimony in the Estate and Probate of the Will of Roy James, April 25, 1924, Box 930, *Ibid.*; H. C. Hargis testimony in the Estate and Probate of the Will of Roy James, February 22, 1924, *Ibid.*; Tom Carson testimony, *Tom Carson vs. Eva Bean*, May 10, 1924, *Ibid.*; Journal Entry, *Tom Carson vs. Eva Bean*, May 27, 1924, *Ibid.*

have the “delicate constitution” of a white woman. The lack of regard for Bean’s reputation extended to the court announcing that her marriage to James started with premarital relations and that after they separated, she had gone to Claremore “taking baths” in the famed radium baths at the Bungalow Bath House with “a negro” registered as husband and wife “at a colored hotel.” Offensive questioning such as this, coupled with statements from federal employees that “Eva Bean had never been considered an exceptionally bright Indian,” significantly damaged her credibility in court and marked her as a loose woman among her community.³⁸³

In the case of Roy James’ probate proceedings, among others, the Osage community rallied to protect their people and their resources. They hired competent attorneys, provided testimony in support of their friends and relatives, and petitioned the Secretary of Interior to keep their oil resources and lands in the hands of Osage tribal members. In the case of Roy James, Eva Bean and James’s half-siblings, Mary and Louis, each filed claims to his estate in an attempt to prevent Josephine Walker from inheriting everything. Through their testimony, it is clear Eva, Mary, and Louis did not care who among them received James’s money, as long as Walker did not win the suit. James’s will bequeathing his estate entirely to Walker had been disapproved by the Secretary of Interior soon after his death, but when the lawyers for Walker resubmitted the will, the Assistant Secretary of the Interior, F. M. Goodwin, approved it on June 30, 1924. Despite claims of James drafting a subsequent will leaving his estate to his niece and third wife, Nettie, and only one dollar to Josephine Walker, no evidence of the will could be found, and the

³⁸³ Tom Carson testimony, *Tom Carson vs. Eva Bean*, May 10, 1924, Box 930, File 34357-1924-351, Central Classified Files, NARA-DC; Eva Bean testimony in the Estate and Probate of the Will of Roy James, May 5, 1924, *Ibid.*; Florence Big Eagle testimony in the Estate and Probate of the Will of Roy James, May 5, 1924, *Ibid.*; Rose Maker testimony in the Estate and Probate of the Will of Roy James, March 5, 1924, *Ibid.*; Charley Hammond testimony in the Estate and Probate of the Will of Roy James, May 5, 1924, *Ibid.*; Exhibit A in the Estate and Probate of the Will of Roy James, *Ibid.*; Louise Hokiahse testimony in the Estate and Probate of the Will of Roy James, April 12, 1924, *Ibid.*; Marie Maker testimony in the Estate and Probate of the Will of Roy James, March 15, 1924, *Ibid.*

family presumed “the maid had swept it up when she was sweeping...and destroyed it.”³⁸⁴ In the end, after seven years in probate, the district court ruled that Josephine Walker was the sole heir of James’s estate, but after nearly a decade of hearings and appeals, the value of the estate totaled \$12,597.24, a fraction of what it had been since the Office of Indian Affairs had agreed to disburse funds to pay for each party’s court costs.

Additionally, Walker accrued \$15,000 in debt to H. P. White, her attorney, throughout the probate case. Superintendent Wright argued the remaining money from James’s estate should be held in trust until her legal fees were negotiated or paid.³⁸⁵ Even though James’s immediate relatives and former wives did not receive any of his estate, they successfully hampered Walker’s attempts to walk away with as much money from the Osages as she possibly could.

Due to the acts of violence and whites trying to access Osage money and land through marriages, tribal members had to rely on their relational web more than ever. In one way, they shrunk the relational web to protect themselves from the onslaught of attacks, but in other ways, they expanded the web to ask for help from trusted individuals. Some of these came from within the tribe, like T. J. Leahy, a trusted and influential lawyer who had helped negotiate strong arrangements with oil developers and the federal government and defended tribal members in local suits. Others, like the Bureau of Investigation agents and employees at the Osage Agency, namely Superintendent George Wright, aided the Osages through their incorporation into the external relational web. While contemporaries and subsequent observers often portray Osages as

³⁸⁴ Chas. H. Burke to Secretary of Interior, June 18, 1924, Box 930, File 34357-1924-351, Central Classified Files, NARA-DC; J. Geo. Wright to Commissioner of Indian Affairs, July 16, 1924, *Ibid.*; A. G. Matteson testimony in the Estate and Probate of the Will of Roy James, undated, *Ibid.*

³⁸⁵ Josephine Hames to Ray Lyman Wilbur, June 14, 1930, Box 930, File 34357-1924-351, Central Classified Files, NARA-DC; Superintendent Wright to Commissioner of Indian Affairs, September 10, 1929, *Ibid.*

victims releasing “A ‘Macedonian Cry’” for help, tribal leaders actively sought aid, spent well over \$30,000 for the capture and prosecution of the criminals prosecuted for tribal murders, and provided continual support for tribal members who existed in a liminal space throughout probate court hearings.³⁸⁶

Many believe the “reign of terror” ended when William Hale and his associates went to jail or died. However, the crimes and attacks on Osage tribal members and the Osage Nation’s sovereignty began long before oil development, the establishment of their leasing economy, or even before the Osages moved to Indian Territory. Tribal leaders understood because the oil boom could bust at any moment, they needed to take action to protect their people. The first of these actions addressed inheritance laws by preventing anyone but those “of Indian blood” could inherit from Osage tribal members “who are of one-half or more Indian blood of the Osage Tribe of Indians.” This proved to be a much-needed step in the right direction, but the law did not apply to those who married prior to February 27, 1925, exempting many intermarried individuals. Additionally, this law firmly stated anyone “convicted of having taken, or convicted of causing or procuring another to take, the life of an Osage Indian” shall not receive any of the individual’s estate. Both laws passed as a reaction to the criminal activities at the height of the oil boom and Hale’s notorious criminal advances but remained in effect and protected tribal members throughout the twentieth century.³⁸⁷

The Osage Nation had endured tragedies and trials previously, but the oil boom proved to be one of the most challenging periods of Osage history. Due to their reliance on one another

³⁸⁶ 44th Annual Report, Board of Directors of the Indian Rights Association, 1926, Box 15, File 7, Fred Grove Papers; “T.J. Leahy Has Always been Wise Counselor for Osages,” *The American Indian*, Vol. 1.2 (Nov 1926), 2; Chap. 277, May 10, 1926, 44 Stat. L. 453 in Barney, 85; Chap. 853, May 29, 1928, 45 Stat. L. 883, 899 in Barney, 85; Boutwell, 79; Wilson, “Chief Fred Lookout,” 50.

³⁸⁷ Boutwell, 70; Chap. 359, February 27, 1925, 43 Stat. L. 1008 in Barney, 82; *Federal Indian Law Handbook*, 1035, 1045-1046; Smith, *Big Bluestem*, 193; Wilson, “Chief Fred Lookout,” 50.

and trusted allies, the Osage Nation's relational web remained strong, however that did not mean inter-tribal debates ceased or that the future remained free of more challenges. Although the Osage Nation still held about seventy-five percent of their headrights throughout the oil boom, they lost significant acreage, headrights, and tribal members. Even though the 1925 law limited who could receive Osage headrights, Congress did not formally ban non-Native headright owners from passing their headrights through inheritance until 1978. After that time, any headrights in possession of non-Osages reverted to the Osage Nation upon their death which allowed for the recovery of some of the headrights that had slipped away from Osage control during the height of the oil boom. Chief Fred Lookout reflected on the oil boom on the eve of the Great Depression in 1929 and believed Osages "will be happy" when "this oil will give out and there will be no more fat checks every few months from the great white father." He believed, "The hope of the Osage is the farm. We have our homesteads. I want my people to show the white brothers we can live and be happy on our homesteads. I think my people will be happier to work the land. I want them to raise chickens, grow fruit, corn and cattle. Then I know the Osages will be better off." While Chief Lookout's vision for the future looked very different from reality, the Osages diplomatic and negotiation strategies, along with their reliance upon their relational web, proved invaluable during some of the most turbulent times in their history and would continue to aid them during future struggles.³⁸⁸

³⁸⁸ Sherwood Ball in Ball and Xavier; Smith, *Big Bluestem*, 194; Alvin Rucker, "Chief Fred Lookout 67 in 1929," *Daily Oklahoman*, January 6, 1929.

Conclusion

The Osage Nation and its history have too often been reduced to sensationalized stories of the oil boom or simplified caricatures of Native peoples. Most authors, journalists, and historians focus their attention on the oil boom or the crimes and murders that occurred on the Osage Reservation during the 1910s and 1920s. Yet, this unjustly reduces the long and complicated history of the Osage People to the most dramatic and painful time in their past. This study contextualizes the events of the early twentieth century by shifting focus away from the popular oil boom era. Instead, this work focuses on the understudied period of 1860 to 1930 and examines how the Osages maintained their tribal sovereignty despite continual attempts to strip the Tribal Nation of their power and autonomy. Osages successfully cultivated strong bonds between tribal members and negotiated strategic alliances with external parties. These internal and external relationships created the Osages relational web, which became a crucial component in how tribal members navigated their changing world. Examination of this era demonstrates how the Osages successfully relied on their relational web as they signed treaties, relocated to a new reservation, and drafted a tribal constitution. The Osage Nation's commitment to developing and maintaining their relational web allowed the tribe to grow and thrive as they responded to demanding and, at times, altogether new challenges.

During the seven decades encompassed in this study, tribal members negotiated three land cession treaties, relocated to a new reservation, drafted two constitutions, and created a leasing economy with ranchers, farmers, and oil producers. The rapid rate of change could bewilder those unprepared or unwilling to adapt to the new environment. The Osage Nation maintained control of their land, resources, and people by utilizing the story from their ancestors of the black spider. The black spider served as a life symbol for their ancestors and continued to

be present in their daily lives as they utilized the spider's teaching by selecting valuable lands and creating a solid and powerful relational web. The tribe's commitment to one another, despite differences that arose, and their desire to incorporate allies into their relational web allowed the Nation to not just survive the changes but thrive and prosper economically decades before oil leases began.

Despite the impressive series of events the Osages encountered and navigated to the benefit of their people, many accounts simply focus on inaccurate representations of the Osage Nation. Contemporary journalists frequently fell into this line of storytelling, but fictional depictions have maintained this trend to the present day. Some novels do not wish to identify the Osages specifically, yet their discussions frequently allude to the wealthy tribe or towns within the Osage Reservation. Many authors utilized the Osages and the idea of an oil-rich tribe to entice readers and excite their imaginations. The first widely successful novel featuring Oklahoma oil and depictions of Osages was Edna Ferber's *Cimarron*. Using the racist rhetoric of the time, Ferber described Native peoples as "boor and shunted" who "by a curious twist of fate a golden harvest and his high-powered cars and flashing diamonds have elevated him to the status of the socially most ambitious whites."³⁸⁹ The popular western novels of the era captured the imagination of authors who depicted tribal members longing for the past when they could live free of the "white man's work." Reverend James W. O'Keefe's poem entitled "Oklahoma Osage" illustrates that sentiment in the final lines, "I wonder if the Osage dreams/ These rushing, joyous days, / Of old, lean years and quiet streams, / And simple ways."³⁹⁰ White authors of the 1930s and 40s framed their versions of Osage history as the end of an era for the "vanishing

³⁸⁹ Edna Ferber, *Cimarron* (New York: Bantam Books, 1958); Albert Keiser, *The Indian in American Literature* (New York: Oxford University Press, 1933).

³⁹⁰ James W. O'Keefe, "Oklahoma Osage," *The American Indian* 4.9 (June, 1930), 5.

race” of Native peoples. These narratives may have fit the desires of authors and contemporary Americans, but Native Americans had no intention of allowing their culture to “die out.”

By the mid-twentieth century, authors continued to write fictionalized versions of the Osage oil boom, but they moved away from the standard western trope. Instead, many began to focus on the daring white men who rushed in to protect the Osages from criminals. These narratives emphasized the idea that the Osage Nation could not protect their people, leading to the devastation of their communities and countless unsolved murders. Many whites believed tribal members simply could not catch the “criminal masterminds” without the aid of outside individuals. Initially, the “white savior” stereotype resulted in novels that highlighted the heroic actions of Bureau of Investigations agents, while more recent novels have capitalized on the popularity of the true crime genre by portraying the oil boom and the subsequent murders as thrilling mysteries.³⁹¹ While the text of these novels presents an inaccurate view of the Osages, one particularly damaging cover of the novel *The Grey Horse Legacy* features a hyper-sexualized Native woman who is partially obscured by a white man holding a blanket over her. Not only does the cover objectify Native women, but it further solidified the image of “helpless” Osages while also heightening the drama and intrigue of the love story featured in the novel.³⁹²

Naturally, the wealthy Osages became popular subjects for journalists and novelists alike, but the Osage oil boom soon permeated children’s books and local cinemas. Some authors used the oil fields as a backdrop to a mystery, as in the popular *Betty Gordon* series from the Stratemeyer Syndicate. Others like Helen Rushmore’s picture book encouraged children to “Just

³⁹¹ Fred Grove, *Warrior Road* (New York: Manor Books, Inc., 1977); Grove, *Years of Fear*; Matt Braun, *Black Gold*.

³⁹² Hunt, *The Grey Horse Legacy*.

imagine having more wealth than wishes!!”³⁹³ Even Tintin, the popular Belgium cartoon character, encountered Native wealth in *Tintin in America*. Although he and his dog Snowy “discovered” oil on the Blackfeet Reservation, the resulting scenes demonstrate a similar phenomenon as the Osage oil boom. After recovering from an extended chase scene and surviving a gushing oil well, Tintin is immediately approached by a group of oil producers attempting to secure his signature so they could drill for oil. The plot deviates from the Osages’ experiences as the Blackfeet are forced to move from the area by armed guards, demonstrating the greed and willingness of many whites to secure Native fortunes for their own benefit.³⁹⁴

American cinema readily capitalized on the image of the wealthy Osages. One of the first known films to feature an oil-rich tribe is Buster Keaton’s short film, *The Paleface*. The fictionalized tribe of the Crowfeet Indians had been targeted by corrupt oil magnates who assaulted a tribal member and secured the deed to their lands for one dollar. As the short progresses, it becomes clear that if Buster Keaton’s character, Little Chief Paleface, had not bumbled on to the scene, the tribe would have lost all their resources and royalty payments.³⁹⁵

Fortunately, modern Native authors have begun to reject these narratives of white saviors who rescued the Osages. In contrast, they depict Native characters at the heart of the story while still relating the events of the oil boom. Linda Hogan’s *Mean Spirit* features a Native American government employee who begins investigating the crimes of the oil boom. Tom Holm’s narrative focuses on a Cherokee private investigator hired to find a missing Osage girl during the

³⁹³ Rushmore’s quote came from an autographed copy of the text held in the Strickland Collection of Native Peoples Law at the University of Oklahoma Law Library. Alice B. Emerson, *Betty Gordon in the Land of Oil* (New York: Cupples & Leon, 1920); Helen Rushmore, *The Magnificent House of Man Alone* (Champaign, IL: Garrard Publishing Company, 1968).

³⁹⁴ Hergé, *The Adventures of Tintin: Tintin in America* (London: Mammoth, 2001), 28-29.

³⁹⁵ Edward F. Cline and Buster Keaton, *The Paleface* (Los Angeles: Buster Keaton Productions, 1922).

oil boom. Lastly, Charles H. Red Corn's *A Pipe for February* presents the events and crimes of the 1920s from the perspective of a traditional Osage.³⁹⁶

Representation matters, and when it comes to the Osages, they have endured inaccurate and poor depictions of their people for far too long. The goal of this study has not just been to fill in the pieces of an understudied period in the Nation's history but to counter depictions of tribal members as victims to the "reign of terror." Throughout their history, tribal leaders adapted to change and negotiated the world around them to ensure the safety and survival of their people. Their willingness to adapt and incorporate new allies into their relational web set the Osage Nation apart and allowed them to be successful and prosperous even before oil production began on their Indian Territory reservation. Contemporary and historical accounts tend to refer to the Osages as lucky: lucky to be positioned in an area of the country where they could control access to trade during the colonial period, lucky to have ready access to cattle drives and rich prairie grasses, and most of all, lucky to find oil under their reservation. However, the Osage Nation carefully cultivated their wealth. Tribal members actively sought economic opportunities, such as trading with Europeans and charging cattlemen access to cross their reservation lands, and tribal leadership incorporated their new ventures into their relational web. Tribal members actively worked to support one another and their Nation through economic opportunities.

Most analyses of the Osage Nation and the events of the early twentieth-century oil boom lack critical context. By beginning this investigation in 1860 and moving through the oil boom era, it becomes clearer how tribal members relied on their relational web, both internally and

³⁹⁶ Linda Hogan, *Mean Spirit* (New York: Ivy Books, 1990); Tom Holm, *The Osage Rose* (Tucson: University of Arizona Press, 2008); Charles H. Red Corn, *A Pipe for February: A Novel* (Norman: University of Oklahoma Press, 2002).

externally, to support their people. Tribal members willingly ceded lands and moved to a reservation in southern Kansas only to face additional pressure from white settlers, Civil War refugees, and eventually railroad tycoons to cede more of their lands. Tribal leaders negotiated the Canville Treaty and attempted unsuccessfully to evade the corrupt Sturges Treaty. By relying on their Cherokee allies and skillful attorneys, tribal leaders negotiated the Drum Creek Treaty in 1867, which allowed the tribe to select their new reservation in Indian Territory and own the lands in fee simple. The transition did not occur seamlessly, though, as tribal members engaged in the difficult work of leaving the only home they knew to start a new life in an unfamiliar territory. Despite the difficulties of rebuffing white squatters and poor living conditions, tribal members dedicated resources to maintaining and growing their relational web to support their people.

By the 1880s, the Osage Nation had weathered the problematic transition and began rebuilding their communities in Indian Territory and seeking new economic ventures. The once lucrative buffalo hunts had become too dangerous to continue, so tribal members soon turned their attention to the growing number of cattle drives through the plains. The Osage Nation opened their relational web to incorporate ranchers who provided monetary support for the tribe as they rented grazing lands, but they also helped prevent whites from squatting on the rural portions of the reservation. Eventually, the tribe included white farmers into their relational web by negotiating agricultural leases. These ventures allowed the Osages to stabilize their economy and cultivate and improve their lands with little effort and expense on their part. By the time Oklahoma statehood discussions began, the tribal nation had recovered from their relocation and grown in influence throughout the region. The Osage Nation negotiated the allotment of their

lands from a position of strength which allowed them to retain all acreage in the reservation and safeguard the sub-surface rights for the benefit of all tribal members.

Having discussed the preceding events in Osage history, it is clear oil development, and the resulting oil boom fit into the existing relational web through a similar pattern of negotiation and adaptation. The initial blanket oil lease was not as beneficial to tribal members as subsequent leases since tribal leaders were not consulted during the initial drafting of the lease. However, after 1916, the tribe negotiated leases that fit into their well-developed leasing economy. These leases, unlike the initial blanket lease, resulted in enormous wealth for tribal members. This wealth also brought greed, deception, crime, and additional oversight during the height of the oil boom. Tribal members did not cower as victims but continued to rely on their relational web as they sought aid from the federal government, investigators, and lawyers who helped prosecute cases and draft legislation that protected tribal citizens from future exploitation.

Taken together, the events of the late nineteenth and early twentieth century fundamentally altered Osage life and politics. Tribal members navigated the shift from semi-annual buffalo hunts to a leasing economy that encompassed cattlemen, farmers, and oil barons. They drafted two constitutions, endured the dissolution of their tribal government, and negotiated critical treaties and allotment legislation that ultimately benefitted tribal members. Tribal members relied on their long history of negotiation and diplomacy to navigate rapid changes and the many assimilation efforts the federal government attempted to force upon them. By crafting strong relationships between tribal members and beneficial alliances with external parties, the Osage Nation relied on their relational web to protect their people, their natural resources, and their sovereignty.

While this study concludes as the height of the oil boom is beginning to wane, that is not an indicator that the Osage Nation began to lose its influence in the area. Too often, historical studies of the tribe conclude with the implication that the tribal nation declined in power, land holdings, or simply end the narrative once white prosecutors finished their cases and criminals were imprisoned ending the “reign of terror.” However, as demonstrated in this study, the Osage Nation often defies expectations and is not so neatly categorized. A. F. Hinton, a contemporary journalist for the *National Petroleum News*, reported the Osages wealth and oil production had become “like the old gray mare so dear to the soldier’s heart, the Osage sale ain’t what it used to be” after the 1925 sale.³⁹⁷ Proceeds of the oil auctions dipped as the 1930s approached, but tribal members continued to see high profits. In 1934, tribal members collectively earned nearly \$300,000,000 from both oil and gas auctions and royalties from oil and gas production. In 1941, even after decades of drilling on their lands, tribal members secured individual incomes close to \$5,000. Some reporters feared the oil fields on the Osage Reservation would play themselves out by the mid-1920s, but by 1952 over 639 million barrels of oil had been produced from the lands with no signs of stopping in subsequent decades.³⁹⁸

In addition to developing their wealth, tribal leaders successfully defended their sovereignty through court proceedings throughout the mid-twentieth century. In 1931, the Texas Company and the Indian Territory Illuminating Oil Company tried to extend their influence by filing suit against the Osages in the Northern District Court of Oklahoma. Both companies argued that they had leased the land from the Osage Tribal Council, which meant they actually owned the land and anything below its surface. The bold assertions of the *Adams et al. v. Osage*

³⁹⁷ Hinton, “Osage Sale Brings Less Than Million.”

³⁹⁸ Workers of the Writers’ Program, 288-289; Cracraft, “The Fabulous Osage, Part III,” 50; Cracraft, “The Fabulous Osage, Part II,” 24-25.

Tribe of Indians et al. case were rebuffed by the district court as an attempted land grab and ultimately dismissed. Due to the alliances that encompassed the relational web of the Osage Nation, tribal members were protected from assaults on their sovereignty through legislation and the federal government at large. This can be seen even more clearly in the 1940 case of *United States v. Barnsdall Oil*, when United States attorneys prosecuted the Barnsdall Oil Company as trespassers on the Osage Nation since they pumped oil for three months without a valid lease. Without the Osages' commitment to creating strong alliances, particularly with the federal government, they would not have been able to rely on their relational web to help safeguard their natural resources throughout this era.³⁹⁹

Future studies of the Osage Nation should include investigations into the legacy of the oil boom era. The tribe continues to hold their mineral rights in common, which has continued to benefit the nation. During the 1990s, their oil leases and royalties earned the nation up to ten million dollars per year. While the profits from oil royalties have fallen dramatically in more recent years, the Osages have adapted to these changes and cultivated other economic ventures to provide for their people. In addition to maintaining ranching operations, the Osage Nation opened its first casinos in the early 2000s. As with many Native Nations, revenue generated from these establishments provides funding for tribal services, supports tribal members and charitable organizations, and supplements general operating budgets of the Osage Nation.⁴⁰⁰ Throughout the modern era of the Osage Nation, just as they had for generations, tribal members have continued to rely on one another and their allies cultivated through their relational web. This interdependence and the support of one another allowed the tribe to weather extreme change, new economic ventures, and counteract assaults on their sovereignty. The Osage

³⁹⁹ Lamsam, 278-279.

⁴⁰⁰ Ibid., 272; "Casino History," <https://www.osagecasino.com/about-us/>; Callahan, 18.

Nation's strength relies on this structure, and as such, the Tribal Nation should be remembered for its legacy of supporting tribal members via the relational web instead of the often-cited oil boom.

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