

* * * all restrictions against alienation of their allotment selections, both surplus and homestead, of all adult Osage Indians of less than one-half Indian blood * * *

The act also provided that:

The homestead allotments of the members of the Osage Tribe shall not be subject to taxation if held by the original allottee prior to April 8, 1931.

The Supreme Court of the United States in *La Motte v. United States*¹⁰⁸ held that approval of an Osage will by the Secretary of the Interior removed restrictions theretofore existing on the lands of the allottee. Congress under section 3 of the Act of February 27, 1925,¹⁰⁹ continued restrictions on such

64 F. 2d 628 (C. C. A. 10, 1933); *In re Dennison*, 38 F. 2d 662 (D. C. W. D. Okla., 1930), app. dism. 45 F. 2d 585; *In re Penn*, 41 F. 2d 257 (D. C. W. D. Okla., 1929); *Jump v. Ellis*, 100 F. 2d 130 (C. C. A. 10, 1938), aff'g 22 F. Supp. 380 (D. C. N. D. Okla., 1938), cert. den. 306 U. S. 645 (1938); *Morrison v. United States*, 6 F. 2d 811 (C. C. A. 8, 1925); *Ne-Kah-Wah-She-Tun-Kah v. Fall*, 290 Fed. 303 (App. D. C. 1923), app. dism. 266 U. S. 595 (1925); *Osage County Motor Co. v. United States*, 33 F. 2d 21 (C. C. A. 8, 1929), cert. den. 280 U. S. 577; *Silurian Oil Co. v. Essley*, 54 F. 2d 43 (C. C. A. 10, 1931); *Tapp v. Stuart*, 6 F. Supp. 577 (D. C. N. D. Okla., 1934); *Taylor v. Tayrien*, 51 F. 2d 884 (C. C. A. 10, 1931), cert. den. 284 U. S. 672 (1931); *United States v. Barnett*, 7 F. Supp. 573 (D. C. N. D. Okla., 1934); *United States v. Hughes*, 6 F. Supp. 972 (D. C. N. D. Okla., 1934); *United States v. Johnson*, 87 F. 2d 155 (C. C. A. 10, 1936); *United States v. Lynch*, 7 Alaska 568 (1 Div. 1927); *United States v. Mullendore*, 74 F. 2d 286 (C. C. A. 10, 1934); *United States v. Sands*, 94 F. 2d 156 (C. C. A. 10, 1938); *Webster v. Fall*, 266 U. S. 507 (1925); *Williams v. Clinton*, 83 F. 2d 143 (C. C. A. 10, 1936); *Work v. United States ex rel. Lynn*, 266 U. S. 161 (1924); *Work v. United States ex rel. Mosier*, 261 U. S. 352 (1923).

¹⁰⁸ Act of June 28, 1906, 34 Stat. 539, fn. 156, *supra*.

¹⁰⁹ It has been said that while this act removes restrictions from and makes taxable lands of Osages of less than half blood, it does not affect the lands of Indians of half or more Indian blood. These lands remained nontaxable. *United States v. Mullendore*, 74 F. 2d 286 (C. C. A. 10, 1934). The Fourth Circuit Court of Appeals concurred in *Board of County Commissioners v. United States*, 64 F. 2d 775 (C. C. A. 10, 1933).

¹¹⁰ 254 U. S. 570 (1921), mod'g and aff'g 256 Fed. 5 (C. C. A. 8, 1919).

¹¹¹ 43 Stat. 1008. Amending Act of March 3, 1921, 41 Stat. 1249, 1250. Amended by Act of March 2, 1929, 45 Stat. 1478. Cited in 36 Op. A. G. 98 (1929); 38 Op. A. G. 577 (1937); Op. Sol. I. D., M.17687, December 19, 1925; Op. Sol. I. D., M.18423, March 16, 1926; Op. Sol. I. D., M.19190, June 2, 1926; Op. Sol. I. D., M.19225, June 7, 1926; Op. Sol. I. D., M.21642, March 26, 1927; Op. Sol. I. D., M.25107, May 4, 1929; Letter to Commr. Ind. Aff. from Sec'y. Interior, September 1930; Op. Sol. I. D., M.26731, October 14, 1931; Op. Comp. Gen. to Sec'y, February 4, 1932; Op. Sol. I. D., M.27788, August 6, 1934; Memo. Sol. I. D., May 1, 1936; Op. Sol. I. D., M.27963, January 26, 1937; Letter from A. G. to Sec'y. of Int., February 13, 1937; Letter from Asst. Sec'y. to A. G., October 27, 1937; 53 I. D. 169 (1930); 54 I. D. 105 (1932); 54 I. D. 260 (1933); 54 I. D. 341 (1933); 55 I. D. 456 (1936); 56 I. D. 48 (1937); *Browning v. United States*, 6 F. 2d 801 (C. C. A. 8, 1925), cert. den. 269 U. S. 568 (1925); *Choteau v. Burnet*, 283 U. S. 691 (1931); *Globe Indemnity Co. v. Bruce*, 81 F. 2d 143 (C. C. A. 10, 1935), cert. den. 297 U. S. 716; *Hickey v. United States*, 64 F. 2d 628 (C. C. A. 10, 1933); *Logan v. United States*, 58 F. 2d 697 (C. C. A. 10, 1932), cert. den. 287 U. S. 630; *Morrison v. United States*, 6 F. 2d 811 (C. C. A. 8, 1925); *Osage County Motor Co. v. United States*, 33 F. 2d 21 (C. C. A. 8, 1929), cert. den. 280 U. S. 577; *Tapp v. Stuart*, 6 F. Supp. 577 (D. C. N. D. Okla., 1934); *Taylor v. Tayrien*, 51 F. 2d 884 (C. C. A. 10, 1931), cert. den. 284 U. S. 672 (1931); *United States v. Board of Commissioners*, 26 F. Supp. 270 (D. C. N. D. Okla., 1939); *United States v. Carson*, 19 F. Supp. 616 (D. C. N. D. Okla., 1937), app. dism. 98 F. 2d 1023; *United States v. Howard*, 8 F. Supp. 617 (D. C. N. D. Okla., 1934); *United States v. Hughes*, 6 F. Supp. 972 (D. C. N. D. Okla., 1934); *United States v. Johnson*, 87 F. 2d 155 (C. C. A. 10, 1936); *United States v. Mashunkashey*, 72 F. 2d 847 (C. C. A. 10, 1934), rehearing den. 73 F. 2d 487 (C. C. A. 10, 1934), cert. den. 294 U. S. 724 (1935); *United States v. Mullendore*, 74 F. 2d 286 (C. C. A. 10, 1934); *Williams v. Clinton*, 83 F. 2d 143 (C. C. A. 10, 1936).

By the Act of February 27, 1925, the loose wording of the 1921 act regarding the payment to guardians of incompetent Osages was clarified. It was provided that the moneys in excess of the \$1,000 quarterly that had been paid to the guardians since 1921 through an

lands, and on lands inherited by certain classes of Osage Indians, as follows:

Lands devised to members of the Osage Tribe of one-half or more Indian blood or who do not have certificates of competency, under wills approved by the Secretary of the Interior, and lands inherited by such Indians, shall be inalienable unless such lands be conveyed with the approval of the Secretary of the Interior.

As oil production of the Osage Reservation increased and Osage headrights became more valuable, Osage Indians became increasingly attractive to individuals seeking wealthy husbands or wives, and the Osage tribe became gravely concerned at the passing of Osage wealth out of the tribe by the process of inheritance. Congress attempted to meet this problem in section 7 of the 1925 act¹¹⁰ as follows:

Hereafter none but heirs of Indian blood shall inherit from those who are of one-half or more Indian blood of the Osage Tribe of Indians any right, title, or interest to any restricted lands, moneys, or mineral interests of the Osage Tribe: *Provided*, That this section shall not apply to spouses under existing marriages.

By the provisions of the Act of March 2, 1929,¹¹¹ the lands, moneys, and other properties now or hereafter held in trust or under the supervision of the United States for the Osage tribe

administrative interpretation of the 1921 act prior to the decision in *Work v. United States ex rel. Lynn*, 266 U. S. 161 (1924) which were still in the control or possession of the guardian were to be returned by them to the Secretary of the Interior, together with all property purchased or investments made by the guardian out of such excess funds. See *United States v. Barnett*, 7 F. Supp. 573 (D. C. N. D. Okla., 1934). The Secretary was to hold these funds or dispose of them as he deemed for the best interest of the Indians to whom the money belonged. Under section 1 of the act, the control of the Secretary was reimposed over all funds in the possession of the guardian which in their inception had been under the supervision and control of the Secretary. See *Hickey v. United States*, 64 F. 2d 628 (C. C. A. 10, 1933); *United States v. Hughes*, 6 F. Supp. 972 (D. C. N. D. Okla., 1934). Though the 1925 act reimposes restrictions on certain funds, it broadened the authority of the Secretary of the Interior over Indian funds and permitted the investment of such funds in

* * * first mortgage real estate loans not to exceed 50 per centum of the appraised value of such real estate, and where the member is a resident of Oklahoma such investment shall be in loans on Oklahoma real estate, stock in Oklahoma building and loan associations, livestock * * *: *Provided*, That the Secretary of the Interior shall not make any investment for an adult member without first securing the approval of such member of such investment

This provision was interpreted in Op. Sol. I. D., M.27636, December 8, 1933. It also provided:

All bonds, securities, stocks, and property purchased and other investments made by legal guardians shall not be subject to alienation, sale, disposal, or assignment without the approval of the Secretary of the Interior.

¹¹⁰ 43 Stat. 1008, 1011. See fn. 169, *supra*.

¹¹¹ 45 Stat. 1478. Supplementing Act of June 28, 1906, 34 Stat. 539, 545. Amending Act of March 3, 1921, 41 Stat. 1249; Act of February 27, 1925, 43 Stat. 1008, 1010, 1011. Amended by Act of June 24, 1938, sec. 3, 52 Stat. 1034. Supplementing Act of January 31, 1931, 46 Stat. 1047. Discussed in 38 Op. A. G. 577 (1937) and 56 I. D. 48 (1937). Also cited in Op. Sol. I. D., M.25258, June 26, 1929; Op. Sol. I. D., M.27788, August 6, 1934; Op. Sol. I. D., M.27963, January 26, 1937; 53 I. D. 169 (1930); 54 I. D. 105 (1932); 55 I. D. 456 (1936); *Adams v. Osage Tribe of Indians*, 59 F. 2d 653 (C. C. A. 10, 1932), aff'g 50 F. 2d 918 (D. C. N. D. Okla., 1931), cert. den. 287 U. S. 652; *Choteau v. Burnet*, 283 U. S. 691 (1931); *Choteau v. Comm'r of Int. Rev.*, 38 F. 2d 976 (C. C. A. 10, 1930), aff'd sub. nom. *Choteau v. Burnet*, 283 U. S. 691 (1931), cert. den. 281 U. S. 714, 281 U. S. 759; *Continental Oil Co. v. Osage Oil & Refining Co.*, 69 F. 2d 19 (C. C. A. 10, 1934), cert. den. 287 U. S. 616; *Globe Indemnity Co. v. Bruce*, 81 F. 2d 143 (C. C. A. 10, 1935), cert. den. 297 U. S. 716; *In re Dennison*, 38 F. 2d 662 (D. C. W. D. Okla., 1930), app. dism. 45 F. 2d 585; *Silurian Oil Co. v. Essley*, 54 F. 2d 43 (C. C. A. 10, 1931); *Stuart v. Tapp*, 81 F. 2d 155 (C. C. A. 10, 1935); *Tapp v. Stuart*, 6 F. Supp. 577 (D. C. N. D. Okla., 1934); *Taylor v. Tayrien*, 51 F. 2d 884 (C. C. A. 10, 1931), cert. den. 284 U. S. 672 (1931);

of Indians, the members thereof, or their heirs and assigns, were continued subject to such trust and supervision until January 1, 1959, unless otherwise provided by act of Congress. This act also provided that homestead allotments of Osage Indians not having a certificate of competency shall remain exempt from taxation while the title remains in the original allottee of one-half or more of Osage Indian blood and in his unallotted heirs or devisees of one-half or more of Osage Indian blood until January 1, 1959, with the proviso that the tax-exempt land of any such Indian allottee, heir, or devisee shall not at any time exceed 160 acres.

Section 5 of this Act provides:

The restrictions concerning lands and funds of allotted Osage Indians, as provided in this Act and all prior Acts now in force, shall apply to unallotted Osage Indians born since July 1, 1907, or after the passage of this Act, and to their heirs of Osage Indian blood, except that the provisions of section 6 of the Act of Congress approved February 27, 1925, with reference to the validity of contracts for debt, shall not apply to any allotted or unallotted Osage Indian of less than one-half degree Indian blood: *Provided*, That the Osage lands and funds and other property which has heretofore or which may hereafter be held in trust or under supervision of the United States for such Osage Indians of less than one-half degree Indian blood not having a certificate of competency shall not be subject to forced sale to satisfy any debt or obligation contracted or incurred prior to the issuance of a certificate of competency: *Provided further*, That the Secretary of the Interior is hereby authorized in his discretion to grant a certificate of competency to any unallotted Osage Indian when in the judgment of the said Secretary such member is fully competent and capable of transacting his or her own affairs.

The Act of June 24, 1938,¹⁷² continued the restrictions on the lands, moneys, and other properties now or hereafter held in trust or under the supervision of the United States for Osage Indians, until January 1, 1984, unless otherwise provided by act of Congress. This act also continued the tax exemption on homestead allotments of Osage Indians not having a certificate of competency, while the title remains in the original allottee of one-half or more of Osage Indian blood or in his unallotted heirs or devisees of one-half or more Osage Indian blood, until January 1, 1984.

No general exemption of Osage Indians as such from the payment of taxes can be implied from these statutes. On the contrary, the plan has been to teach the Indians, by partial taxation, to assume the responsibilities of citizenship.^{172a}

B. HEADRIGHTS AND COMPETENCY

Section 4 of the Act of June 28, 1906 provides, in part:

That all funds belonging to the Osage tribe, and all moneys due, and all moneys that may become due, or may hereafter be found to be due the said Osage tribe of Indians, shall be held in trust by the United States for the period of twenty-five years from and after the first day of January, nineteen hundred and seven, except as herein provided:

United States v. Board of Comm'rs, 26 F. Supp. 270 (D. C. N. D. Okla., 1939); *United States v. Johnson*, 87 F. 2d 155 (C. C. A. 10, 1936); *United States v. La Motte*, 67 F. 2d 788 (C. C. A. 10, 1933); *United States v. Sands*, 94 F. 2d 136 (C. C. A. 10, 1938); *Utilities Production Corp. v. Carter Oil Co.*, 2 F. Supp. 81 (D. C. N. D. Okla., 1933); *Williams v. Clinton*, 83 F. 2d 143 (C. C. A. 10, 1936).

¹⁷² 52 Stat. 1034, 1036.

^{172a} See *Choteau v. Burnet*, 283 U. S. 691 (1931). Section 510 of title 25 of the U. S. Code (Act of August 25, 1937, 50 Stat. 806) provides:

Whenever restricted Indian lands in the State of Oklahoma are subject to gross production tax on minerals, including oil and gas, the Secretary of the Interior, in his discretion, may cause such tax or taxes due the State of Oklahoma to be paid in the manner provided for by the statutes of the State of Oklahoma.

FIRST. That all the funds of the Osage tribe of Indians, and all the moneys now due or that may hereafter be found to be due to the said Osage tribe of Indians, and all moneys that may be received from the sale of their lands in Kansas under existing laws, and all moneys found to be due to said Osage tribe of Indians on claims against the United States, after all proper expenses are paid, shall be segregated as soon after January first, nineteen hundred and seven, as is practicable and placed to the credit of the individual members of the said Osage tribe on a basis of a pro rata division among the members of said tribe, as shown by the authorized roll of membership as herein provided for, or to their heirs as hereinafter provided, said credit to draw interest as now authorized by law; and the interest that may accrue thereon shall be paid quarterly to the members entitled thereto, except in the case of minors, in which case the interest shall be paid quarterly to the parents until said minor arrives at the age of twenty-one years: *Provided*, That if the Commissioner of Indian Affairs becomes satisfied that the said interest of any minor is being misused or squandered he may withhold the payment of such interest: *And provided further*, That said interest of minors whose parents are deceased shall be paid to their legal guardians, as above provided.

SECOND. That the royalty received from oil, gas, coal, and other mineral leases upon the lands for which selection and division are herein provided, and all moneys received from the sale of town lots, together with the buildings thereon, and all moneys received from the sale of the three reservations of one hundred and sixty acres each heretofore reserved for dwelling purposes, and all moneys received from grazing lands, shall be placed in the Treasury of the United States to the credit of the members of the Osage Tribe of Indians as other moneys of said tribe are to be deposited under the provisions of this Act, and the same shall be distributed to the individual members of said Osage tribe according to the roll provided for herein, in the manner and at the same time that payments are made of interest on other moneys held in trust for the Osages by the United States, except as herein provided.

Under the provisions of the foregoing act, the pro rata share of each Indian allottee aggregating \$3,819.76 was placed to his credit in the Treasury of the United States. The royalty received from oil, gas, coal, and other minerals, together with the interest on the pro rata shares were disbursed to the Indians quarterly as they accrued.¹⁷³

Section 5 of the Act of 1906 provides:

That at the expiration of the period of twenty-five years from and after the first day of January, nineteen

¹⁷³ See Hearings, H. Comm. on Ind. Aff., H. R. 6234, 74th Cong., 1st sess., 1935, p. 115, and Act of June 24, 1938, 52 Stat. 1034, 1037. The District Court, in *In re Dennison*, 38 F. 2d 662 (D. C. W. D. Okla., 1930), app. dism., 45 F. 2d 585, defined a headright:

What is an Osage "head-right?" This is thoroughly defined by the Act of 1906, and is nothing more than the interest that a member of the tribe has in the Osage tribal trust estate, and the trust consists of the oil, gas, and mineral rights, and the funds which were placed to the credit of the Osage tribe, all fully set out in the above act. (P. 664.)

Another court has defined a headright as follows: "The right to receive the trust funds and the mineral interests at the end of the trust period, and during that period to participate in the distribution of the bonuses and royalties arising from the mineral estates and the interest on the trust funds, is an Osage headright." *Globe Indemnity Co. v. Bruce*, 81 F. 2d 143, 148-149 (C. C. A. 10, 1935). The tribal income derived from oil and gas sources up to June 1939 aggregated \$267,606,990.93, which entire sum, less the amounts authorized by Congress to be expended for the expenses of the Osage Agency, were distributed under various acts of Congress, to which reference will hereinafter be made, to the Indians per capita, the shares of deceased Indians being paid to their heirs or devisees. Also see *In re Irwin*, 60 F. 2d 495 (C. C. A. 10, 1932). Headrights are not transferable and do not pass to a trustee in bankruptcy. *Taylor v. Tayrien*, 51 F. 2d 884 (C. C. A. 10, 1931), cert. den. 284 U. S. 672 (1931); *Taylor v. Jones*, 51 F. 2d 892 (C. C. A. 10, 1931), cert. den. 284 U. S. 663 (1931).

hundred and seven, the lands, mineral interests, and moneys, herein provided for and held in trust by the United States shall be the absolute property of the individual members of the Osage tribe, according to the roll herein provided for, or their heirs, as herein provided, and deeds to said lands shall be issued to said members, or to their heirs, as herein provided, and said moneys shall be distributed to said members, or to their heirs, as herein provided, and said members shall have full control of said lands, moneys, and mineral interest, except as hereinbefore provided.

Section 6 provides that the lands, moneys, and mineral interests, provided for in the act, of any deceased member of the Osage tribe shall descend to his or her legal heirs, according to the laws of the Territory of Oklahoma, or of the State in which said reservation may be hereinafter incorporated, except where the decedent leaves no issue, nor husband, nor wife, in which case the lands, moneys, and mineral interests must go to the mother and father equally.

When the Secretary of the Interior is satisfied that an individual Indian is able to manage his own property, the Secretary is permitted to issue to that Indian a certificate of competency.¹⁷⁴ So long as the Indian has not received a certificate of competency, the income derived as his share of the tribal royalty is exempt from the application of federal income tax laws.¹⁷⁵ The exemption, however, does not apply in favor of a white woman who receives income from land inherited from her children, members of the Osage tribe.¹⁷⁶

Under section 3 of the Act of April 18, 1912,¹⁷⁷ jurisdiction of the property of deceased and of orphan minor, insane, or other incompetent allottees of the Osage tribe was conferred on the county courts of the State of Oklahoma. The act provided that a copy of all papers filed in the county court shall be served on the Superintendent of the Osage Agency at the time of filing, and authorized the superintendent, whenever the interests of the allottee require, to appear in court for the protection of the interests of the allottee. The act further authorized the superintendent or the Secretary of the Interior, to investigate the conduct of executors, administrators, and guardians and to prosecute any remedy, civil or criminal, as the exigencies of the case and the preservation and protection of the allottee or his estate may require.

Section 5 of the Act of April 18, 1912, authorizes the Secretary of the Interior, in his discretion, under rules and regulations to be prescribed by him and upon application therefor, to pay to Osage allottees, including the blind, insane, crippled, aged, or helpless, all or part of the funds in the Treasury of the United States to their individual credit, with the proviso that he shall first be satisfied of the competency of the allottee or that the release of said individual trust funds would be to the manifest best interests and welfare of the allottee, and further, that no trust funds of a minor or of an allottee who is incompetent shall be released and paid over except to a guardian of such person duly appointed by the proper court and after the filing by such

guardian and approval by the court of a sufficient bond satisfactorily to administer the funds released.

Section 6 of this act provides that the proceeds of partition sales due minor heirs, including such minor Indian heirs as may not be tribal members and those Indian heirs not having certificates of competency, shall be paid into the Treasury of the United States and placed to the credit of the Indians upon the same condition as attached to segregated shares of the Osage tribal fund, or with the approval of the Secretary of the Interior paid to the duly appointed guardian. The same disposition as provided in the act with reference to the proceeds of inherited lands sold is to be made of the money in the Treasury of the United States to the credit of deceased Osage allottees.

Section 7 of the act protected the funds of Osage Indians against any claim arising prior to the grant of a certificate of competency. It provided further that no lands or moneys inherited from Osage allottees shall be subject to or taken or sold to secure the payment of any indebtedness incurred by such heir prior to the time such lands and moneys are turned over to such heirs.

Section 8 authorized the disposition by will of all of the estate of an Osage Indian, including trust funds, with the provision that no such will should be admitted to probate or have any validity unless approved before or after the death of the testator by the Secretary of the Interior.

As stated by the United States Supreme Court in *Work v. Lynn*,¹⁷⁸ it was believed when the 1906 Act was passed:

* * * that the income to be paid quarterly would not be in excess of the current needs of the members. For about ten years that proved to be true. Thereafter increased production of oil and gas under the leases that were given resulted in royalties which swelled the income to a point where the quarterly payments were greatly in excess of current needs and were leading to gross extravagance and waste. Administrative measures restricting the payments were adopted, but their validity was questioned (see *Work v. Mosier*, 261 U. S. 352) and the matter was called to the attention of Congress by the Secretary of the Interior. (P. 167.)

Because of the conditions outlined above, Congress in section 4 of the Act of March 3, 1921,¹⁷⁹ amended the Act of June 28, 1906, as follows:

That from and after the passage of this Act the Secretary of the Interior shall cause to be paid at the end of each fiscal quarter to each adult member of the Osage Tribe having a certificate of competency his or her pro rata share, either as a member of the tribe or heir of a deceased member, of the interest on trust funds, the bonus received from the sale of leases, and the royalties received during the previous fiscal quarter, and so long as the income is sufficient to pay to the adult members of said tribe not having a certificate of competency \$1,000 quarterly except where incompetent adult members have legal guardians, in which case the income of such incompetents shall be paid to their legal guardians, and to pay for maintenance and education to the parents or natural guardians or legal guardians actually having minor members under twenty-one years of age personally in charge \$500 quarterly out of the income of said minors all of said quarterly payments to legal guardians and adults, not having certificates of competency to be paid under the supervision of the Superintendent of the Osage Agency; and to invest the remainder after paying all the taxes of such members either in United States bonds or in Oklahoma State, county, or school bonds, or place the same on time deposits at interest in banks in the State of Oklahoma for the benefit of each individual member under such rules and regulations as the Secretary of the

¹⁷⁴ For rules regarding certificates of competency to Osage adults, see 25 C. F. R. 241.5.

¹⁷⁵ *Blackbird v. Commissioner of Internal Revenue*, 38 F. 2d 976 (C. C. A. 10, 1930).

¹⁷⁶ *Pettit v. Commissioner of Internal Revenue*, 38 F. 2d 976 (C. C. A. 10, 1930), cert. den. 281 U. S. 759 (1930); aff'd sub nom. *Choteau v. Burnet*, 283 U. S. 691 (1931).

¹⁷⁷ 37 Stat. 86, amending Act of June 28, 1906, 34 Stat. 539; see fn. 163 *supra*. In *Work v. United States ex rel. Mosier*, 261 U. S. 352 (1923), the Supreme Court said:

* * * Until he has had a full opportunity to exercise this discretion, neither he [Assistant Secretary] nor the Secretary can be compelled by mandamus to make the payment, and if in its exercise, he does not act capriciously, arbitrarily or beyond the scope of his authority, the writ will not issue at all. (P. 362.)

¹⁷⁸ 266 U. S. 161 (1924).

¹⁷⁹ 41 Stat. 1249. See fn. 165, *supra*.

Interior may prescribe: *Provided*, That at the beginning of each fiscal year there shall first be reserved and set aside out of the Osage tribal funds available for that purpose a sufficient amount of money for the expenditures authorized by Congress out of the Osage funds for that fiscal year: *Provided further*, That all just existing individual obligations of adults not having certificates of competency outstanding upon the passage of this Act, when approved by the Superintendent of the Osage Agency, shall be paid out of the money of such individual as the same may be placed to his credit in addition to the quarterly allowance provided for herein.

Prior to the decision of the United States Supreme Court in *Work v. Lynn* the foregoing provision was administratively interpreted as requiring payment to the legal guardians of adult restricted Osage Indians of the entire income of such Indians. As a result of the decision in the *Lynn* case, Congress in the Act of February 27, 1925,¹⁰⁰ provided for the return by legal guardians to the Secretary of the Interior of all moneys in their possession or control, theretofore paid them in excess of \$4,000 per annum for adults and \$2,000 for minors under the Act of March 3, 1921. The act also provided for delivery by the guardians to the Secretary of the Interior of all property, bonds, securities, and stock purchased, or investments made by such guardians out of the moneys paid them, to be held by the Secretary of the Interior or disposed of by him, as he shall deem to be for the best interests of the members to whom the same belongs. The act further provided that all funds other than as above mentioned, and other property theretofore or thereafter received by a guardian of a member of the Osage tribe of Indians, which was theretofore under the supervision and control of the Secretary of the Interior or the title to which was held in trust for such Indians by the United States, shall not thereby become divested of the supervision and control of the Secretary of the Interior or the United States be relieved of its trust; and that the guardians should not dispose of or otherwise encumber such fund or property without the approval of the Secretary of the Interior, and in accordance with the orders of the county court of Osage County, Oklahoma. The act also provided that in case of the death, resignation, or removal from office of such a guardian, the funds and property in his possession subject to supervision and control of the Secretary of the Interior or to which the United States held the title in trust should be immediately delivered to the Superintendent of the Osage Agency, to be held by him and supervised and invested as provided by the terms of the act.

Congress also modified the payments to be made in behalf of enrolled or unenrolled minor members above 18 years of age so as to permit the parents or legal guardians of such minors to receive \$1,000 quarterly. The provision with regard to the payment under the 1925 act reads as follows:

That the Secretary of the Interior shall cause to be paid at the end of each fiscal quarter to each adult member of the Osage Tribe of Indians in Oklahoma having a certificate of competency his or her pro rata share, either as a member of the tribe or heir or devisee of a deceased member, of the interest on trust funds, the bonus received from the sale of oil or gas leases, the royalties therefrom, and any other moneys due such Indian received during each fiscal quarter, including all moneys received prior to the passage of this Act and remaining unpaid; and so long as the accumulated income is sufficient the Secretary of the Interior shall cause to be paid to the adult members of said tribe not having a certificate of competency \$1,000 quarterly, except where such adult members have legal guardians, in which case the amounts provided for herein may be paid to the legal guardian or direct to such Indian in the discretion of the Secretary of the Interior

the total amounts of such payments, however, shall not exceed \$1,000 quarterly except as hereinafter provided; and shall cause to be paid for the maintenance and education, to either one of the parents or legal guardians actually having personally in charge, enrolled or unenrolled, minor member under twenty-one years of age, and above eighteen years of age, \$1,000 quarterly out of the income of each said minors, and out of the income of minors under eighteen years of age, \$500 quarterly, and so long as the accumulated income of the parent or parents of a minor who has no income or whose income is less than \$500 per quarter is sufficient, shall cause to be paid to either of said parents having the care and custody of such minor \$500 quarterly, or such proportion thereof as the income of such minor may be less than \$500, in addition to the allowances above provided for such parents. Rentals due such adult members from their lands and their minor children's lands and all income from such adults' investments shall be paid to them in addition to the allowance above provided. All payments to legal guardians of Osage Indians shall be expended subject to the joint approval in writing of the court and the superintendent of the Osage Agency. All payments to adults not having certificates of competency, including amounts paid for each minor, shall, in case the Secretary of the Interior finds that such adults are wasting or squandering said income, be subject to the supervisions of the superintendent of the Osage Agency: *Provided*, That if an adult member, not having a certificate of competency so desires, his entire income accumulating in the future from the sources herein specified may be paid to him without supervision, unless the Secretary of the Interior shall find, after notice and hearing, that such member is wasting or squandering his income, in which event the Secretary of the Interior shall pay to such member only the amounts hereinbefore specified to be paid to adult members not having certificates of competency. The Secretary of the Interior shall invest the remainder, after paying the taxes of such members, in United States bonds, Oklahoma State bonds, real estate, first-mortgage real-estate loans not to exceed 50 per centum of the appraised value of such real estate, and where the member is a resident of Oklahoma such investment shall be in loans on Oklahoma real estate, stock in Oklahoma building and loan associations, livestock, or deposit the same in banks in Oklahoma, or expend the same for the benefit of such member, such expenditures, investments, and deposits to be made under such restrictions, rules, and regulations as he may prescribe: *Provided*, That the Secretary of the Interior shall not make any investment for an adult member without first securing the approval of such member of such investment. * * * (Pp. 1008-1009.)

Under the same section Congress provided that no guardian shall be appointed, except on the written application or approval of the Secretary of the Interior, for the estate of a member of the Osage tribe of Indians who does not have a certificate of competency or who is of one-half or more Indian blood.

Section 3 of this act provides in part:

Property of Osage Indians not having certificates of competency purchased as hereinbefore set forth shall not be subject to the lien of any debt, claim, or judgment except taxes, or be subject to alienation, without the approval of the Secretary of the Interior.

Section 4 of the Act of February 27, 1925,¹⁰¹ newly vested in the Secretary of the Interior power to revoke certificates of competency issued to an Osage Indian of more than one-half Indian blood, whom he finds, after notice and hearing, to be squandering or misusing his funds.¹⁰²

¹⁰⁰ 43 Stat. 1008. See fn. 169 *supra*. On the general subject of revocation of certificate of competency of Osage Indian, see 53 I. D. 169 (1930).

¹⁰¹ Even if an Osage Indian were manifestly incompetent, and his business interests would be safeguarded thereby, his certificate could not be revoked unless he squandered or misused his income. On limitation on the amount of credit which may be granted on Osage Indian, see Act of March 3, 1901, 31 Stat. 1058, 1065-1066.

¹⁰² 43 Stat. 1008. See fn. 169, *supra*.

In section 6 of the act it was provided:

No contract for debt hereafter made with a member of the Osage Tribe of Indians not having a certificate of competency, shall have any validity, unless approved by the Secretary of the Interior. * * *

In section 1 of the Act of March 2, 1929,¹³³ Congress provides:

The lands, moneys, and other properties now or hereafter held in trust or under the supervision of the United States for the Osage Tribe of Indians, the members thereof, or their heirs and assigns, shall continue subject to such trust and supervision until January 1, 1959, unless otherwise provided by Act of Congress.

Section 3 of this act provides:

That section 1 of the Act of Congress of February 27, 1925 (Forty-third Statutes at Large, page 1008), is hereby amended by adding thereto the following:

"The Secretary of the Interior be, and is hereby, authorized, in his discretion, under such rules and regulations as he may prescribe, upon application of any member of the Osage Tribe of Indians not having a certificate of competency, to pay all or any part of the funds held in trust for such Indians: *Provided*, That the Secretary of the Interior shall, within one year after this Act is approved, pay to each enrolled Indian of less than half Osage blood, one-fifth part of his or her proportionate share of accumulated funds. And such Secretary shall on or before the expiration of ten years from the date of the approval of this Act, advance and pay over to such Osage Indians of less than one-half Osage Indian blood, all of the balance appearing to his credit of accumulated funds, and shall issue to such Indian a certificate of competency: *And provided further*, That nothing herein contained shall be construed to interfere in any way with the removal by the Secretary of the Interior of restrictions from and against any Osage Indian at any time."

Section 4 of this act provides:

That section 2 of the Act of Congress approved February 27, 1925 (Forty-third Statutes at Large, page 1011), being an Act to amend the Act of Congress of March 3, 1921 (Forty-first Statutes at Large, page 1249), be, and the same is hereby, amended to read as follows:

"Upon the death of an Osage Indian of one-half or more Indian blood who does not have a certificate of competency, his or her moneys and funds and other property accrued and accruing to his or her credit and which have heretofore been subject to supervision as provided by law may be paid to the administrator or executor of the estate of such deceased Indian or direct to his heirs or devisees, or may be retained by the Secretary of the Interior in the discretion of the Secretary of the Interior, under regulations to be promulgated by him: *Provided*, That the Secretary of the Interior shall pay to administrators and executors of the estates of such deceased Osage Indians a sufficient amount of money out of such estates to pay all lawful indebtedness and costs and expenses of administration when approved by him; and, out of the shares belonging to heirs or devisees, above referred to, he shall pay the costs and expenses of such heirs or devisees, including attorney fees, when approved by him, in the determination of heirs or contests of wills. Upon the death of any Osage Indian of less than one-half of Osage Indian blood or upon the death of an Osage Indian who has a certificate of competency, his moneys and funds and other property accrued and accruing to his credit shall be paid and delivered to the administrator or executor of his estate to be administered upon according to the laws of the State of Oklahoma: *Provided*, That upon the settlement of such estate any funds or property subject to the control or supervision of the Secretary of the Interior on the date of the approval of this Act, which have been inherited by or devised to any adult or minor

heir or devisee of one-half or more Osage Indian blood who does not have a certificate of competency, and which have been paid or delivered by the Secretary of the Interior to the administrator or executor shall be paid or delivered by such administrator or executor to the Secretary of the Interior for the benefit of such Indian and shall be subject to the supervision of the Secretary as provided by law."

Under section 5 of the act, the restrictions concerning lands and funds of allotted Osage Indians, as provided in that act and all prior acts then in force, shall apply to unallotted Osage Indians born since July 1, 1907, or thereafter, and to their heirs of Osage Indian blood, except that the provision of section 6 of the Act of February 27, 1925, with reference to the validity of contracts for debt, shall not apply to any allotted or unallotted Osage Indian of less than one-half degree Indian blood, and subject to the further proviso that the Osage lands and funds and any other property which had theretofore or which may thereafter be held in trust or under supervision of the United States for Osage Indians of less than one-half degree Indian blood not having a certificate of competency shall not be subject to forced sale to satisfy any debt or obligation contracted or incurred prior to the issuance of a certificate of competency, and with the further provision that the Secretary of the Interior was authorized in his discretion to grant a certificate of competency to any unallotted Osage Indian when in the judgment of the said Secretary such member is fully competent and capable of transacting his or her own affairs.

The Act of June 24, 1938,¹³⁴ further modified Osage payments as follows:

That hereafter the Secretary of the Interior shall cause to be paid to each adult member of the Osage Tribe of Indians not having a certificate of competency his or her pro rata share, either as a member of the tribe or heir or devisee of a deceased member, of the interest on trust funds, the bonus received from the sale of oil or gas leases, and the royalties therefrom received during each fiscal quarter, not to exceed \$1,000 per quarter; and if such adult member has a legal guardian, his current income not to exceed \$1,000 per quarter may be paid to such legal guardian in the discretion of the Secretary of the Interior: *Provided*, That when an adult restricted Indian has surplus funds in excess of \$10,000 there shall be paid such Indian sufficient funds from his accumulated surplus in addition to his current income to aggregate \$1,000 quarterly; but in the event of any adult restricted Indian has surplus funds of less than \$10,000, such Indian shall receive quarterly only his current income not to exceed \$1,000 per quarter: *Provided further*, That the Secretary of the Interior is hereby authorized to and may in his discretion pay out of any money heretofore accrued or hereafter accruing to the credit of any person of Osage Indian blood who does not have a certificate of competency or who is one-half or more Osage Indian blood, all of said person's taxes of every kind and character, for which said person is now or hereafter may be liable, before paying to or for such person any funds as required by law: *And provided further*, That upon application and consent of any restricted Osage Indian the Secretary of the Interior may cause payment to be made of additional funds from the accumulated surplus to the credit of any Osage Indian under such rules and regulations as he may prescribe. Rentals due such adult members from their lands and their minor children's lands and all income from such adults' investments, including interest on deposits to their credit, shall be paid to them in addition to the current allowances above provided.

Whenever minor members of the Osage Tribe of Indians have funds or property subject to the control or supervision of the Secretary of the Interior, the said Secretary may in his discretion pay or cause to be paid to the parents, legal guardian, or any person, school, or institution having actual custody of such minors,

¹³³ 45 Stat. 1478. See fn. 171 *supra*.

¹³⁴ 52 Stat. 1034. See fn. 172, *supra*.

such amounts out of the income or funds of the said minors as he deems necessary, and when such a minor is eighteen years of age or over, the Secretary of the Interior may in his discretion cause disbursement of funds for support and maintenance or other specific purposes to be made direct to such minor. (Pp. 1034-1035.)

C. INHERITANCE

Exclusive jurisdiction of the probate of wills and the determination of heirs of the Osages is vested in the state courts.¹²⁵

If an Osage dies testate, the Secretary of the Interior is authorized to approve or disapprove the will prior to institution of probate proceedings in the local court.¹²⁶ In the event that the will is disapproved, it may not be offered for probate, but if the will is approved, the state court is not bound by the Secretary's determination as to validity and it may permit the issue to be relitigated before it.

The power of an Osage Indian to make a will has been discussed by the Solicitor for the Department of the Interior:¹²⁷

There is no provision in the act of 1906, authorizing an Osage Indian to make a will. That authority is contained in Section 8 of the act of April 18, 1912 (37 Stat. 86, 88), entitled "An Act supplementary to and amendatory of the act" of June 28, 1906, which section provides:

"That any adult member of the Osage Tribe of Indians not mentally incompetent may dispose of any or all of his estate, real, personal, or mixed, including trust funds, from which restrictions as to alienation have not been removed, by will, in accordance with the laws of the State of Oklahoma: *Provided*, That no such will shall be admitted to probate or have any validity unless approved before or after the death of the testator by the Secretary of the Interior."

The act in section 3 thereof, subjects the property of deceased and incompetent Osage allottees in probate matters to the jurisdiction of the County Courts of the State of Oklahoma. The land of such persons, however, cannot be sold or alienated and no will can be admitted to probate without the prior approval of the Secretary of the Interior. The word "minor" or "minors" is used throughout the act of 1912, in connection with provisions similar to those found in the act of 1906. The clear indications are that the word as used in the later act means the same thing that it was declared to mean in the former act, that is, a person under 21 years of age. As stated the word "adult" in the act of 1906, as applied to both males and females refers to a person 21 years of age or over. In view of the fact that the act of 1912 is "supplemental to and amendatory of the act" of 1906, section 8 thereof which authorizes any "adult" member of the Osage tribe of Indians to dispose of his property by will must be read into the act of 1906. The section thus becomes a part of and must be construed in connection with said act of 1906. In this view there is no escape from the conclusion that the word "adult" in said section 8 means a person 21 years of age or over. It was the exclusive right of Congress to determine at what age an Osage Indian becomes capable of making a will. It declared that age to be 21 or majority. A law of Oklahoma declaring a person to be competent to make a will at 18 years of age is directly in conflict with the Federal statute and the latter is controlling. *Truskett v. Closser* (198 Fed. 835; 236 U. S. 223); *Priddy v. Thompson* (204 Fed. 955); *Letts v. Letts* (176 Pac. 234). It follows that testatrix not having reached the age of 21 years was for that reason incapable of making a valid will.

D. LEASING

1. *Tribal oil and gas and mineral leases.*—The greater part of the income from leases of the Osage Indians is derived from oil and gas lands. During the fiscal year 1924 the oil rights

to 70,737 acres in the Osage Reservation were sold by means of bids for \$17,530,800.¹²⁸ In the introduction to the discussion of the Osages, it has been shown that the title to the oil and gas in the Osage Reservation is held for the benefit of the tribe even though the surface has been allotted in severalty to individuals.

Section 3 of the Osage Allotment Act of June 28, 1906,¹²⁹ directed that the oil, gas, coal, or other minerals covered by the allotted lands should be reserved to the Osage tribe for 25 years from and after April 8, 1906, and provided that mineral leases for such lands might be made by the tribal council with the approval of the Secretary of the Interior under such rules and regulations as he might prescribe.¹³⁰ Under the seventh paragraph of section 2 it was provided that oil, gas, and other minerals should become the property of the owner of the land at the expiration of 25 years, unless otherwise provided by Congress.

Section 3 of the 1906 act was amended by the Act of March 3, 1921,¹³¹ so as to extend the reservation of minerals to the tribe to April 7, 1946. All valid existing oil and gas leases on April 7, 1931, were renewed upon the same terms, and extended, until April 8, 1946, and so long thereafter as oil or gas was found in paying quantities. The 1921 act also directed the Secretary of the Interior and the Osage Council "to offer for lease for oil and gas purposes all of the remaining portions of the unleased Osage land prior to April 8, 1931, offering the same annually at a rate of not less than one-tenth of the unleased area."

This provision was again amended by the Act of March 2, 1929,¹³² which extended the period of reservation to the Osage tribe of the minerals covered by such lands until April 8, 1938, unless otherwise provided by act of Congress. The 1929 act also amended the provision requiring the leasing of lands by the Secretary of the Interior and the Osage Council by providing:¹³³

* * * That not less than twenty-five thousand acres shall be offered for lease for oil and gas mining purposes during any one year: *Provided further*, That as to all lands hereafter leased, the regulations governing same and the leases issued thereon shall contain appropriate provisions for the conservation of the natural gas for its economic use, to the end that the highest percentage of ultimate recovery of both oil and gas may be secured: *Provided, however*, That nothing herein contained shall be construed as affecting any valid existing lease for oil or gas or other minerals, but all such leases shall continue as long as gas, oil, or other minerals are found in paying quantities.

Section 3 of the Act of June 24, 1938,¹³⁴ amended the 1929 act to provide that the minerals covered by such reserved lands shall be reserved:

* * * until the 8th day of April, 1983, unless otherwise provided by Act of Congress, and all royalties and bonuses arising therefrom shall belong to the Osage Tribe of Indians, and shall be disbursed to members of the Osage Tribe or their heirs or assigns as now provided by law, after reserving such amounts as are now or may hereafter be authorized by Congress for specific purposes.

The lands, moneys, and other properties now or hereafter held in trust or under the supervision of the United States for the Osage Tribe of Indians, the members

¹²⁸ Schmeckebier, *The Office of Indian Affairs, Its History, Activities and Organization* (1927), p. 183.

¹²⁹ 34 Stat. 539, fn. 156, *supra*.

¹³⁰ See *Work v. United States ex rel. Mosier*, 261 U. S. 352 (1923).

¹³¹ 41 Stat. 1249, fn. 165 *supra*.

¹³² Sec. 1, 45 Stat. 1478. See fn. 171, *supra*.

¹³³ *Ibid.*, 1479.

¹³⁴ 52 Stat. 1034, 1035. For regulations regarding the leasing of Osage Reservation lands for oil and gas mining, see 25 C. F. R. 180.1-180.94. For regulations regarding the leasing of such lands for mining except oil and gas, see *ibid.* 204.1-204.30.

¹²⁵ Act of April 18, 1912, sec. 3, 37 Stat. 86. See fn. 163, *supra*. Also see subsection A, *supra*.

¹²⁶ *Ibid.*, sec. 8, 37 Stat. 86, 88.

¹²⁷ Op. Sol. I. D., D.47112, April 16, 1920.

thereof, or their heirs and assigns, shall continue subject to such trusts and supervision until January 1, 1984, unless otherwise provided by Act of Congress.

2. *Agricultural leases of restricted lands.*—Section 7 of the Osage Allotment Agreement of June 28, 1906,¹⁹⁵ authorizes the allottees of the Osage tribe and their heirs to lease their lands for farming, grazing, or other purposes, but requires all leases

for the benefit of the individual allottees of the tribe or their heirs to be approved by the Secretary of the Interior before becoming effective.¹⁹⁶

¹⁹⁶ It was held under this section and sec. 12 that the Secretary of the Interior had authority to adopt rules and regulations for the leasing of such lands and all such leases, unless approved by the Secretary of the Interior, were void. See *La Motte v. United States*, 254 U. S. 570 (1921). For regulations regarding such leases, see 25 C. F. R. 177.1-177.18.

¹⁹⁵ 34 Stat. 539.

SECTION 13. THE OKLAHOMA INDIAN WELFARE ACT¹⁹⁷

The Wheeler-Howard bill as originally introduced applied to the State of Oklahoma.¹⁹⁸ The bill was amended at the suggestion of Senator Thomas of Oklahoma, chairman of the Senate Indian Affairs Committee, so as to make inapplicable to the tribes in Oklahoma¹⁹⁹ those sections which extended existing trust periods, limited alienation of restricted land, authorized the establishment of new reservations, and authorized tribal organization.

Two years later these provisions of the Wheeler-Howard Act were extended to Oklahoma, with some modifications to fit the peculiarities of the local legal situation. Under the Thomas-Rogers Oklahoma Indian Welfare Act, the Indians of Oklahoma became eligible to share in the program of self-government, corporate organization, credit and land purchase. This act also provided for the organization of Indians into voluntary cooperative associations for the purposes of credit administration, production, marketing, consumers' protection or land management, and authorized an appropriation of \$2,000,000 for loans to such associations and to individual Indians of the state.²⁰⁰

¹⁹⁷ Act of June 26, 1936, 49 Stat. 1967, 25 U. S. C. 501, *et seq.* Supplementing Act of June 18, 1934, 48 Stat. 984. Supplemented by Act of August 9, 1937, 50 Stat. 564; Act of May 9, 1938, 52 Stat. 291. Cited: Circular of Commr., No. 3170, July 28, 1936; Memo. Sol. I. D., July 31, 1936; Statement by Commr. on S. 1736, to repeal Wheeler-Howard Act, March 3, 1937; Memo. Sol. I. D., March 4, 1937; Memo. Acting Sol. I. D., July 14, 1937; Memo. Sol. I. D., November 29, 1937; Memo. Sol. I. D., April 22, 1938; Memo. Sol. I. D., May 24, 1938; Letter of Asst. Commr. to Five Civilized Tribes Agency, June 29, 1938; Memo. Sol. I. D., September 13, 1938; Ind. Off. Letter from Supt. Quapaw Agency, October 17, 1938; Memo. Sol. I. D., December 13, 1938; Memo. Sol. I. D., April 3, 1939.

¹⁹⁸ See Hearings, H. Comm. on Ind. Aff., H. R. 6234, 74th Cong., 1st sess., 1935, pp. 11-12.

¹⁹⁹ Hearings, Sen. Comm. on Ind. Aff., S. 2047, 74th Cong., 1st sess., 1935, p. 9.

²⁰⁰ For regulations regarding this law, see 25 C. F. R. 22.1-23.27 (organization and loans to Indian cooperative associations); 24.1-25.26 (loans to and by Indian credit associations); 26.1-26.26 (loans by United States to individual Indians).

Under this act a considerable number of the Oklahoma tribes have adopted tribal constitutions and obtained corporate charters.²⁰¹

These constitutions and charters differ in several respects from those adopted by tribes of other states.²⁰² For one thing, the substantive powers of the tribe are set forth in the charters, rather than in constitutions. The constitutions are restricted to such topics as membership and tribal organization. Another important characteristic of the Oklahoma tribal constitutions and charters is that none of them contain the broad police and judicial powers found in many other tribal documents. This lack may be ascribed to legislation already discussed,²⁰³ depriving tribal courts in the Indian Territory of all power, and to the practical assumption by the State of Oklahoma of responsibilities which are elsewhere divided between federal and tribal authorities.

²⁰¹ Seneca-Cayuga Tribe of Oklahoma, constitution ratified May 15, 1937, charter ratified June 26, 1937; Wyandotte Tribe of Oklahoma, July, 24, 1937, charter, October 30, 1937; Cheyenne-Arapaho Tribes of Oklahoma, September 18, 1937; Kickapoo Tribe of Oklahoma, September 18, 1937, charter January 18, 1938; Iowa Tribe of Oklahoma, October 23, 1937, charter February 5, 1938; Sac and Fox Tribe of Indians of Oklahoma, December 7, 1937; Pawnee Indians of Oklahoma, January 6, 1938, charter April 28, 1938; Caddo Indian Tribe of Oklahoma, January 17, 1938, charter November 15, 1938; Tonkawa Tribe of Indians of Oklahoma, April 21, 1938; Ottawa Tribe of Oklahoma, November 30, 1938, charter June 2, 1939; Absentee Shawnee Tribe of Indians of Oklahoma, December 5, 1938; Citizen Band of Potawatomi Indians of Oklahoma, December 12, 1938; Thlopthlocco Tribal town, December 27, 1938, charter April 13, 1939; Alabama Quassarte Tribal Town, January 10, 1939, charter May 24, 1939; Miami Tribe of Oklahoma, October 10, 1939, charter June 1, 1940; Peoria Tribe of Indians of Oklahoma, October 10, 1939, charter June 1, 1940; Eastern Shawnee Tribe of Oklahoma, December 22, 1939, charter December 12, 1940.

²⁰² See Chapter 7, sec. 3.

²⁰³ See sec. 4, *supra*.