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### Undersold: Government Intervention on Indian Land Leases in the Tri-State Area

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#### Recommended Citation

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*Theory and Practice: HIST430*. 21.  
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Undersold:  
Government Intervention on Indian Land Leases in the Tri-State Area

Lauren Arthur  
History Theory and Practice  
December 13, 2011

Until the early 1800s, the state of Oklahoma was only open prairie. Unsettled and mainly used as a yearly hunting ground for some Plains Indians, Oklahoma was, to French travelers, land of little opportunity. It was Indian land; therefore it was not available to the French. Yet when they sold the land to the United States in 1803, the young government took control of the land and the people who have been living there for thousands of years. One-hundred years later when minerals were found on Quapaw-restricted land in Oklahoma, the government attempted to pass legislation in order to protect those Indians' interest. But the government's plan failed. The Indians still ended up with usable land once the mines depleted and mining companies left. Although the federal government attempted to protect the rights of the Quapaw Indians who leased their land, it was the local bureaucrats of Oklahoma that allowed the abuse of Indian land to happen. This is important because for most of history people believed the government took no acknowledgement of Indian rights, yet it was the local government's lack of enforcement that has led to years of land right struggles on the Quapaw tribal lands.

The Quapaw knew about land bartering long before the United States government got involved. French explorers in the 1600s to the 1800s traded in the low Oklahoma and Arkansas plains with Indians. The first explorer to notice that there were small deposits of lead in the area was Rene-Robert de La Salle.<sup>1</sup> It was not enough to make further exploration for more, but it was enough to trade for a while. He utilized his Native American allies, who later became known to the United States' government as the Quapaw Tribes, to help him melt down these small deposits to trade. Larry Johnson mentions in his book on Tar Creek that, "The Quapaw were peripherally associated with those first explorers whose actions in claiming Louisiana territory would result in

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<sup>1</sup> Larry G. Johnson. *Tar Creek: A History of the Quapaw Indians, the World's Largest Lead and Zinc Discovery, and the Tar Creek Superfund Site*. (Mustang, Oklahoma: Tate Publishing and Enterprises, 2008), 122.

the first commercial lead mining West of the Mississippi,” but none of this information was passed from the French to the United States after the Louisiana Purchase in 1803.<sup>2</sup>

Not long after the Louisiana Purchase, the President of the United States, Andrew Jackson, signed the Indian Removal Act in 1830. Thousands of Indians, from the Tennessee Appalachian Mountains to the low plains in Southern Oklahoma and Western Arkansas, were moved to the Oklahoma territory that was included in the Louisiana Purchase.<sup>3</sup> This included the Quapaw Indians, who have had only French contact before the United States Indian Affairs officers found them.<sup>4</sup> Eventually, by the mid 1800s, the Quapaw Tribe was allotted restricted land that covered into Northeastern Oklahoma, Southwest Missouri, and Southeastern Kansas, known as the Tri-State Area by the Treaty of 1833.<sup>5</sup> It was not until the late 1800s that the United States discovered the resources these Indians had on the allotted Indian Territory. Large amounts of Lead and Zinc ores were found underneath the allotted five and one half, by sixteen miles of restricted Quapaw land.<sup>6</sup>

At first, mining companies slowly came to Quapaw lands and little towns, such as Lincolnville, sprouted up around the small ores. More of these little towns continued to spring up on Quapaw land, such as Picher, Treece, and Commerce. But before these towns were developed, the Quapaw Tribe gave up the mineral rights to their land when the miners began to move in. Little did the Quapaw know, their land in Picher was going to become the richest lead

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<sup>2</sup> *Ibid.*, 123.

<sup>3</sup> PBS Online, “People and Events: Indian Removal 1814-1858,” PBS.org Online Library, <http://www.pbs.org/wgbh/aia/part4/4p2959.html> (accessed November 19, 2011).

<sup>4</sup> Johnson. 123.

<sup>5</sup> *Ibid.*, 67.

<sup>6</sup> *Ibid.*, 134.

and zinc ore in the world. The government, in exchange for the rights under the earth, gave the rights of the Quapaw to control their own land allotments. This meant they could lease the land to white men to use for hay farming and the little amount of agriculture their land could produce for their income. Yet, when lead and zinc mining began to expand across the restricted Quapaw land, the government put its Indian services to use in helping create the proper leases for this area. The Department of the Interior and Bureau of Indian Affairs initiated contact with the Quapaw Tribe, and started to create legislation to protect the rights of the Indian's and the lessees of their land. Local offices for the Bureau of Indian Affairs were set up across the Tri-State region in order to monitor the leases and mining construction, development, and maintenance on Quapaw-restricted land.

Initially in 1908, the government intervened on the Quapaw land by having all leases go through the Secretary of the Indian Affairs office to be approved before actually implementing the leases between the parties involved. In 1921, government assistance with the leases was going to expire, so the Quapaw rallied behind legislation to extend the period for another twenty-five years.<sup>7</sup> The new legislation would extend the government intervention period from 1921 to 1946. This was against much opposition from the State of Oklahoma; due to Oklahoma becoming a state in 1907 and it absorbing Native American land the state. The new state wanted taxable land in the Northeastern portion of the state, which could not happen until the Quapaw Tribe no longer controlled its land allotment.

Unfortunately, the opposition from the state of Oklahoma was not enough to stop the government from passing, what became known as, the Act of March the third of 1921. This gave the Secretary of the Interior and the Department of Indian Affairs an extended period of control

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<sup>7</sup> Vern E. Thompson, *Brief History of the Quapaw Tribe of Indians*. Reprint. 1937. (Pittsburg, Kansas: Mostly Books, 1994), 34.

over the leases on Quapaw land allotments. In the fiscal year of July 1922 to June 1923, the Department of the Interior started to receive detailed reports that included information about the number of leases, geological information about land, and its appraised value, from the Oklahoma Bureau of Indian affairs. The Department of the Interior started to have issues with insufficient employment through the Bureau. Lack of people available to help regulate the royalty amounts being negotiated in the leases between the Quapaw leasers and leases, along with no observation on the mining development left many Quapaw Indians empty handed.<sup>8</sup>

The following fiscal year, the Department of the Interior hired a Bureau of Mines representative from Oklahoma and detailed them to the Quapaw Land in the Tri-State area. The Bureau of Mines worker was hired to make investigations and examinations in relation to the land leases covered by the Quapaw lease applicants. The data collected was to include, but was not limited to, the mine development, mine operations, and mining improvements for the company or what needed to be done to the land for improvement.<sup>9</sup> This one worker from the Bureau of Mines was in charge of over 5,444 acres of land, approximately 8.7 square miles, and 36 different leases. His decisions “aided the Indian office in determining the terms and conditions upon which leases should be made and requirements for proper mining development,” according to Commissioner Burke of the Office of Indian Affairs, which left one man in charge handling \$2,351,143 worth of land.<sup>10</sup>

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<sup>8</sup> U.S. Department of the Interior, *Report of the Commissioner of Indian Affairs to the Secretary of the Interior for the Fiscal Year of 1923*, By Chas B. Burke, (Washington, D.C: Government Printing Office, 1923), 15.

<sup>9</sup> U.S. Department of the Interior, *Report of the Commissioner of Indian Affairs to the Secretary of the Interior for the Fiscal Year of 1924*, By Chas B. Burke, (Washington, D.C: Government Printing Office, 1924), 26.

<sup>10</sup> *Ibid.*

In 1925, there were a total of fifty-eight leases that covered over eleven square miles of Quapaw land, with 95 fully functioning mines, including: Eagle-Picher, Skeleton Mining Company, and St. Louis Mining Company. The total amount of lead and zinc concentrate produced that year was over 250,000 tons and sold for \$15,135,569.<sup>11</sup> Yet, the high amount of yield from the mines did not reflect in the property value. From 1924 to 1925, the value of Quapaw land went down by \$2,195, unlike the increase from 1923 to 1924 of \$14,390. This difference in property value made the Department of the Interior look for another source of information to make sure they were upholding the congressional legislation in place.

The Geological Survey Office sent a representative to aid in the efforts of creating accurate leases on Quapaw land in Northeastern Oklahoma the next year. The word was spreading about these new mining lands and 1926 brought more mining companies and more leases. Fifty leases were spread throughout the Quapaw-restricted land and subleases from those original leases started to gain popularity within the large mining companies leasing to smaller ones. There were over fifty-two subleases, covering almost four square miles of land. Over 280,000 tons of lead and zinc concentrate was sold for price of \$17,672,498 in 1926. Out of the fifty leases, only forty-three Indians shared in the royalties of the sale.<sup>12</sup> The property value continued to decline by over \$8,000 since the previous year. The little amount of approved leases

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<sup>11</sup> U.S. Department of the Interior, *Report of the Commissioner of Indian Affairs to the Secretary of the Interior for the Fiscal Year of 1925*, By Chas B. Burke, (Washington, D.C: Government Printing Office, 1925), 29.

<sup>12</sup> U.S. Department of the Interior, *Report of the Commissioner of Indian Affairs to the Secretary of the Interior for the Fiscal Year of 1926*, By Chas B. Burke, (Washington, D.C: Government Printing Office, 1926), 13.

by the Indian Affairs office of Oklahoma allowed rich Quapaw Indians to get richer and the poor get poorer.<sup>13</sup>

In 1929, the depression intensified across the United States and was definitely felt by the Mining companies and the towns that surround them on the Quapaw land. With the depression still in fully swing in 1932, the Department of the Interior hired no separate bureau to help them handle the much smaller, but larger sums of land, which included thirty-nine leases and twenty-seven subleases added to the fifty leases the previous year. Even through the depression, the dwindling mining companies still brought up lead and zinc from the ores. Although there was still lead and zinc in the area, the deposits were slowly being flushed out. From 1908 to 1932, the Lead and Zinc deposits were sold for \$121,407,582. The Quapaw leases only brought back \$11,136,541 in royalties in those twenty-four years and now the land was from henceforth, unusable.<sup>14</sup> What once was a grassy and tranquil countryside, was now a “clamorous mass of men and machines gouging holes in the land and building mountains of chat” according to Quapaw Tribe lawyer, Vern E. Thompson. The land was no longer usable, and what Quapaw Indians were left on the restricted land now had no other source of income.

The Quapaw Indians gave up their main resource of income, land, in order to only receive 0.09% of the profit made over the twenty-four years. With receiving such little profits, fraud charges started rise in the late 1920s and early 1930s. The Department of the Interior noticed the trend and some of the complaints of the Quapaw Indians were that Oklahoma Courts were not properly handling the cases. Most cases brought to court were appealed to higher courts, but after that, most cases were never even heard outside Tri-State county courts.

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<sup>13</sup> Thompson, 33.

<sup>14</sup> U.S. Department of the Interior, *Report of the Commissioner of Indian Affairs to the Secretary of the Interior for the Fiscal Year of 1932*, By Charles James Rhodes, (Washington, D.C: Government Printing Office, 1932), 23.



Flora Whitebird, a Quapaw woman, brought a lawsuit of \$25,000,000 on the Eagle-Picher Lead Company for a lease fraud. Her complaint was that the company did not submit the leases through the county court and gave her insufficient remuneration. According to the Act of March the third, if the company did not produce to terms agreed and approved by the federal government then the leaser has right to file suit in civil court. The Commissioner of Indian Affairs, Chas Burke, originally did not approve of the terms in the first lease submitted by Eagle-Picher. Burke said "they [Eagle-Picher] should provide a royalty of 15 per cent for the owner instead of 5 per cent."<sup>15</sup> Two years after the first application was submitted, the Oklahoma office of Indian Affairs approved the lease anyways. The case was dismissed by the Oklahoma Court, and Mrs. Whitebird appealed to the circuit court of appeals in Oklahoma. Her case was not heard due to Eagle-Picher's defense that "the secretary of the Interior did not require approval by the county court because the Quapaw were not members of the five civilized tribes."<sup>16</sup>

This was only one example of the multiple fraud cases brought against the mining companies who made their home on Quapaw lands. Another issue the Department of the Interior started to see was trespassing by mining companies on non-leased allotments. Mining companies needed a lot of space in order to be considered safe and responsible for the their workers health. Many clinics were set up around mining camps and some without permission or knowing the amount of land under lease. A Quapaw man, named Harry Crawfish, lived for four years with a

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<sup>15</sup> "Eagle-Pitcher Wins Quapaw Lease Case," *The Joplin Globe*, April 19, 1930, Picher Collection, box 1, Pittsburg State University Archive, Pittsburg State University, Pittsburg, Kansas.

<sup>16</sup> *Ibid.*

mining clinic on his land, and when the clinic did not relocate, Mr. Crawfish filed trespassing charges against the clinic.<sup>17</sup>

In June of 1932, the Tri-State Zinc and Lead Ore Producers Association of Picher, Oklahoma gave Mr. Crawfish a check signed for one-hundred and eight dollars to compensate him for the trespassing on his non-leased land. The clinic still did not move off of Mr. Crawfish's land until the company collapsed in 1934, according to a note attached to the invoice.<sup>18</sup> It was issues such as Mr. Crawfish and Mrs. Whitebird's cases, that were happening across multiple states and different Indian tribes that lead the senate to start investigating on reservations in the 1930s.

Four senate members were sent to do investigations of Indian Reservations, and one of their stops was to the restricted Quapaw lands in Northeastern Oklahoma. The meeting was held in the center of Quapaw-restricted land, in Miami. Although it was more set up for questioning the Indian Affairs offices and other local bureaus that had business with the Quapaw, the Indian people put together a case without outside help from the Indian Affairs office. The news of the meeting was all over the local papers of the Tri-State Region. Once the meeting began in November of 1930, the Senate immediately saw the problems that the Bureau of Indian Affairs office of Oklahoma created, and that it all went unseen by the Department of the Interior.

At the first official meeting, it was brought to the attention of the Senators that "a majority of the Indians under the jurisdiction of the local agents do not come in contact with the

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<sup>17</sup> Tri-State Zinc and Lead Ore Producers Association of Picher, Oklahoma to Harry Crawfish, invoice, June 1932, Picher Collection, box 34, Pittsburg State University Archive, Pittsburg, Kansas.

<sup>18</sup> *Ibid.*

agent, for he is in his office all the time.”<sup>19</sup> This meant that unless a Quapaw Indian had reason to go visit the Bureau of Indian Affairs’ office, then they never received any contact from the Bureau, who is supposed to be the liaison between the Indians and the federal government. The Indians who did visit the Bureau, reportedly had financial business with them, leaving the poor Indians neglected and out of Bureau contact.

Senator Burton K. Wheeler, from Montana, was the lead investigator on the subcommittee, and was deeply concerned about the conditions that turned up on the Quapaw restricted lands. Quoted from one of the meetings, Senator Wheeler was outraged by the amount of power “Congressional at that gave the county courts of Oklahoma probate rights over restricted Indians was referred to [today] as ‘the crime of 1908.’”<sup>20</sup> J.H Sixkiller, a court clerk in near by Adair County, also spoke at the first part of the hearing about how over 1,100 Indians of that county were in desperate condition and had no other income now that mine companies were leaving, other than cutting sub-commercial timber.

At hearing the following day, the senatorial committee started to become very disappointed by the Bureau of Indian Affairs office in Oklahoma. According to the reports the Bureau brought to the hearing, only one-third of the wards on the Quapaw restricted land were employed.<sup>21</sup> H.A. Andrews, the acting superintendent of the Quapaw Indian Agency and traveling auditor for the Bureau of Indian Affairs, spoke to the senators of the lack of proper

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<sup>19</sup> “Indian Affairs Probe Launched,” *Joplin News Herald*, November 1930, Picher Collection, box 1, Pittsburg State University Archives, Pittsburg, Kansas.

<sup>20</sup> “Wheeler Stirs Up Turmoil At Indian Hearing,” *Miami News Record*, November 17, 1930, Picher Collection, box 1, Pittsburg State University Archive, Pittsburg, Kansas.

<sup>21</sup> “U.S. Senators Criticize Entire Indian Bureau Methods At Hearing Held Here,” *Miami News Record*, November 17, 1930, Picher Collection, box 1, Pittsburg State University Archive, Pittsburg, Kansas.

employment the agency had in the Quapaw Territory. He admitted that out of the 2,000 Quapaw Indians under his office, the Bureau only contacted around 600 to 700. That left over two-thirds of the Indians without receiving any benefit of the Bureau. Andrews described, "The majority of the 2,000 Indians under jurisdiction of the local agency were very poor, with only a small percentage of the Quapaw Indians receiving royalties from mining land."<sup>22</sup>

The subcommittee continued to question Andrews about the Bureau of Indian Affairs throughout the hearing. Andrews testified that the method used by the Oklahoma agency in the Quapaw lands was inefficient at collecting rentals or royalties from the mining houses on the leased lands. These leases were estimated by the Bureau to be at worth of \$16,000 a year. Many papers were lost, and even less were collected. Andrews recommended as a fix for the issue that the federal government should establish a collection office to handle Indian land leases. Wheeler concluded the hearing with a warning to the agents of the Oklahoma Bureau of Indian Affairs, "I am amazed at you Indian Agents down here... you men are going to look after these Indians or we will know the reason why."<sup>23</sup>

There was never any known reprimands or fines against the agents of the Indian Bureau in Oklahoma, but there were changes in government officials by the end of the hearing. In 1932 the Commissioner of Indian Affairs changed from Charles H. Burke, who had been commissioner since 1921, to Charles J. Rhodes.<sup>24</sup> It was found that Burke instead of trying to

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<sup>22</sup> "U.S. Senators Criticize Entire Indian Bureau Methods At Hearing Held Here," *Miami News Record*, November 17, 1930, Picher Collection, box 1, Pittsburg State University Archive, Pittsburg, Kansas.

<sup>23</sup> *Ibid.*

<sup>24</sup> U.S. Department of the Interior, *Report of the Commissioner of Indian Affairs to the Secretary of the Interior for the Fiscal Year of 1932*, By Charles James Rhodes, (Washington, D.C: Government Printing Office, 1932), 23.

restore the land to the Native Americans who lost land due to land leases, he was trying to cut back the rate leases were being approved.<sup>25</sup> Though the new commissioner, Charles Rhodes, never made any improvements to Indian conditions, the end of Burke's reign as commissioner started a chain of more inquiries on the Bureau of Indian Affairs.

Incidents, like the lease handling on the Tri-State Indian land issues, just showed the government how weak the Department of the Interior and its reporting offices were. These federal government establishments were in their infancy when minerals were found on Indian reservations. These local offices such as the Bureau of Indian Affairs, ran by the state, were particularly new especially to the Tri-State region, considering Oklahoma did not enter the United States union until 1907.<sup>26</sup> Oklahoma's statehood was only one year prior to the first congressional modification to the Quapaw land ownership agreement, in which they gave up the mineral rights to their land.

Issues over land ownership and royalty payment are still going on today in the Tri-State region, but recently the federal government is changing its treatment of Native American tribes and are attempting to right their wrongs. In December of 2009, President Barack Obama, signed The Native American Apology Resolution, which was authored by a Tri-State area senator, Sam Brownback, from Kansas. Although this resolution had no monetary compensations for the Native Americans, the United States government, according to the Resolution, officially:

Recognizes that there have been years of official depredation, ill-conceived policies, and breaking of covenants by the Federal Government regarding Indian tribes; apologizes on behalf of the people of the United States to all Native Peoples for the many instances of

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<sup>25</sup> ABC-CLIO Online, "Indian Assimilation and Reorganization: Transition," ABC-CLIO online library, <http://www.historyandtheheadlines.abcclio.com/ContentPages/ContentPage.aspx?entryId=1171627&currentSection=1161468&productid=5>, (accessed November 21, 2011).

<sup>26</sup> Thompson, 34.

violence, maltreatment, and neglect inflicted on Native Peoples by citizens of the United States.<sup>27</sup>

This resolution may have given the Federal Government an ease of mind with the Native American population, but it gave no peace of mind to Quapaw people, who's local government has never issued any apology or compensation. The actions of the local bureaucrats of Oklahoma are still unresolved. There still has been no resolution declared by the Oklahoma government, apologizing for inaction and lack of interaction with the Native Americans of Oklahoma and especially towards the Quapaw during the early 19<sup>th</sup> century.

Despite what many people and students believe from reading historical monographs and/or textbook information about Native American history, the United States federal government did attempt to put Native American interest in mind. This was especially well represented by the action taken by the Department of the Interior; with it's congressional regulation on Quapaw land leases, and the interest in keeping those leases fair. But what lead the Quapaw people in Oklahoma into trouble was the lack of contact and consideration by their local government officials.

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<sup>27</sup> Senate Committee on Indian Relations. *The Native American Apology Resolution*. 111<sup>th</sup> Cong., 1s sess., 2009, S. J. 14, <http://thomas.loc.gov/cgi-bin/query/z?c111:S.J.RES.14>: (accessed November 21, 2011).

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