

# OKLAHOMA DAYS

Dakota Son,  
Oil Country Lawyer

*Essays by:*

Thomas D. Lyons

Robert F. Lyons, Editor

Cambridge, Massachusetts

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## Preface

In this collection of essays, Thomas Daniel Lyons (1883-1948) writes of his experiences getting established in the earnest practice of law in the new State of Oklahoma, after he left South Dakota at the turn of the century. He describes in colorful detail the age when "the Indian Territory with its mineral resources and its timber offered great possibilities for the advancement of young men." While some people were getting established through the luck of the land lottery, Tom was "struggling for bread and butter" as a future oil country lawyer. Endowed with a Plains' shaped temperament and a solid education, he became a practicing lawyer and helped to form the Roxana Petroleum Company, a division of the Royal Dutch Shell Group. In addition to the eight essays presented here--originally published in *The Commonweal* magazine in the 1940s--the supplement contains an autobiographical sketch written in 1929 for a book on Oklahoma history.

Thomas was born in Iowa, the oldest son of Richard F. Lyons and Sarah A. Donlan. His passage from childhood to adulthood took place at his pioneering parents' "Big Place" near DeSmet, South Dakota where he was schooled at an early age in politics beside his father in the democratic spring wagon. He graduated from Notre Dame in 1904 and from the University of South Dakota Law College in 1907. His paternal grandparents, Jeremiah Lyons and Ellen Whelan, immigrated to the United States from Ireland in the mid-1840s: The Lyons' family experience from the time when Tom's father, Richard, led a wagon train of Irish settlers from Iowa to Dakota Territory in the 1870s is described in the published collection of his essays.<sup>1</sup>

The reader will join in the adventures of this lawyer son of homesteaders and resonate with the excitement of life in the developing regions of our country at a time and place which displayed characteristics not dissimilar to those noted by John Adams ten decades earlier:

*All nature in America is quick and bursting into  
birth. A theatre is preparing for tragedies as well  
as comedies for we have no patent of exemption  
from the common lot of humanity.*

Read on, and let the stories tell the tale!

Robert F. Lyons, Editor  
Cambridge, Massachusetts

Summer, 1991

1. **FIRST DAKOTANS: The Lyons Family Experience.** Essays by Thomas D. Lyons.  
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Thomas  
Coyne

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## Cherokee Bill

**MUSKOGEE, INDIAN TERRITORY**, in July 1907, was sizzling hot, and to a young lawyer who had taken his sheepskin in Dakota, the previous June, and was still wearing Dakota summer clothes, the heat seemed to ripple up in great waves from the partly paved streets and sidewalks. A beautiful odor of frying grease was flung out between the opening screen doors of Catfish Kelley's famous emporium near the Midland Valley Depot. I had come to Muskogee for the purpose of securing from the office of the Superintendent for the Five Civilized Tribes (Cherokees, Creeks, Choctaws, Chickasaws and Seminoles) Departmental lease form sets.

A few days previous I had to come to what had, in 1904, been a small town in the Creek Nation located on the Frisco Railroad, but the Glenn Pool district in the Western District of the Indian Territory had begun to attract attention as an oil field in 1905 or the early part of 1906, and on the hot July day in 1907 that I walked from the Midland Valley Depot to the office of the Superintendent for the Five Civilized Tribes, the Glenn Pool had developed into one of the richest oil fields in the world and the town from which I had come on the Midland Valley to Muskogee had by common consent of oil men been dubbed the "Magic City."

As my law curriculum did not include any study of Indian titles or the law of oil and gas, I was glad to get occupation in a law office as a mere messenger, and it was in this capacity that I had come to Muskogee, then the chief city of the Indian Territory. After I had secured the blanks at the office of the Superintendent for the Five Civilized Tribes, I went to call on Colonel Thomas Marcum, a kinsman of one of the Magic City lawyers who had sent me over to Muskogee. Colonel

Marcum had been Democratic National Committeeman from the Indian Territory and was considered the most famous criminal lawyer and orator in the Indian Territory. He had come from Breathitt County, Kentucky, and afterwards returned there to prosecute for murder the feudists of that mountain district who had killed his brother over an election contest. The Colonel's voice had been potent and eloquent in criminal trials before the great "hanging Judge" Isaac Parker, when the United States Court for the Western District of Arkansas, at Fort Smith, had practically unlimited jurisdiction over the Indian Territory.

The Colonel received me very graciously, inquired as to his kinsman, and then immediately inquired as to my purposes. I told him that I hoped to get started practicing law in the Indian Territory then already in the process of becoming a part of the new State of Oklahoma, since the Constitution had been drafted by the Constitutional Convention and an election had been called to vote on the question of its adoption. The Colonel assured me that I had just as good an opportunity as at least 4,000 other lawyers all of whom

he said were equally ignorant on at least one of the following subjects: (1) Creek Indian titles; (2) the law of oil and gas; (3) the Arkansas procedure which had been extended by Congress over Indian Territory to regulate practice in the courts; and (4) the Oklahoma Territory code of procedure which in his opinion would shortly become the law of the land upon the adoption of the Constitution and the admission of the State of Oklahoma. This all sounded very portentous to me, but the Colonel was so kind and encouraging that I really took considerable hope from his conversation.

The Colonel's affability was one of the great traits of his character, and he would waste his time by the hour enlightening and aiding young lawyers. I have since talked with older lawyers, and United States Judges and the consensus of their opinion held that Colonel Marcum was truly the most eloquent criminal lawyer ever in the Indian Territory as well as one of the greatest characters and most magnanimous-souled men. His physical resemblance to Andrew Jackson was frequently remarked. Although a Kentuckian, he had been an officer in the Union Army and had seen stem service. One of his blunt, outspoken aphorisms was that "the two most overrated men in the United States were Abraham Lincoln and Robert E. Lee." He saved one man from the penitentiary merely by a play upon words. This man spelled his name *Poor*, and it was ordinarily pronounced according to the dictionary pronunciation. When the Colonel began his peroration he referred to his client Mr. Poor in the ordinary way. Pretty soon he began to

call him "*poor old Poor*," and after about fifteen minutes he called him "*pore old Poor*." He ended by calling him "*pore ole Pore*," with a strongly sympathetic, nasal accent and with that phrase committed his client's cause to the warm hearts of the jury, who proceeded to acquit him in spite of his clearly established guilt.

While we were talking, a striking looking young man of remarkable physique and agility came into the room and sat down. He seemed to be on terms of pleasant acquaintance with the Colonel, who nodded to him and asked him to wait a moment. I observed after the Colonel had talked with him, and he got up to walk out, that he had a panther-like stride and that there was a look of composure and resolution in his countenance which attracted attention, although his expression was very pleasant, except for rather black beady small deep-set eyes. As he was going out, the Colonel called to him and he turned around. The Colonel introduced me to him and said, "Henry may be able to give you some business. He is in the real estate business, now, at Tulsa." Later on, this same gentleman did bring some abstracts into the Tulsa office for me to examine. When he went out, the Colonel said, "That's Henry Starr. Did you ever hear of him?" I said, "No, sir." "Well," he said, "he's quite a famous character, he was known down here as the Cherokee outlaw and was under sentence of death, but when he disarmed Cherokee Bill in the jail at Fort Smith he got a pardon and now is in the real estate business at Tulsa. Of course, I'm afraid that the real estate business will become too tame for



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## Will Roeser

"No one seriously contests the statement that if we are to find new oil fields, *the daring gambler is more needed than ever before*. Paul S. Stacey, in THE COMMONWEAL, April 8, 1944.

THERE were of course no roads in the Indian Territory, except trails and wagon tracks and all the travel throughout the country, except on the railroad, was done by teams. Will Roeser, however, owned an automobile--the only automobile in Magic City--a large, red, imported French car which had not only a wonderful horn but also a bell and so the car traveling down the unpaved streets of Magic City sounded like a railroad locomotive. Mr. William H. Roeser was one of the leading operatives in the Glenn Pool.

In 1907 a young lawyer who had taken his sheepskin in Dakota the previous June was happy to be in the Indian Territory--among the Five Civilized Tribes, the Cherokees, the Creeks, the Choctaws, the Chickasaws, and the Seminoles--he was happy to be in the oil country, although it was very hot, because there would be, of course, all the business of the oil leases and some of this business might reasonably be supposed to come his way. And since his law curriculum did not include any study of Indian titles or the law of oil and gas, he was glad to get occupation in a law office as a messenger. In 1907 I was a messenger in this small town of the Creek nation which, through the discovery of the oil fields, had with reason and in fact changed its name to Magic City, and I was waiting in the law office for someone to give me a message to carry when Will Roeser walked in.

He was, at that time, thirty-two years old, a pleasant, affable young man who had started in Beaumont,

Texas, had been broke two or three times, but had struck it rich in the Glenn Pool. He was running fifty strings of tools. Mr. Roeser entered the office and equipped with three complete sets--in quadruplicate--of Departmental lease forms, hurriedly left it. But in an hour he was back raging furiously; a lease broker on whom he had depended to go to Okmulgee and get a livery team to drive out in the country and take leases on three Indian allotments had gone on periodic spree and it was well known that this always took three weeks. Apparently he was racking his brain to think of someone to send on this mission, and he asked one of the lawyers in the office if he knew anybody, meaning some other lease man or lease broker, who could go to the country, locate the Indians, take the leases and take the lessors before the United States Commissioner to have them properly acknowledged. When no name was suggested he turned around to where I sat at a miniature desk just inside the office door, and giving me a

good look, said, "Say, kid, you know something about this game, don't you. You have gotten these Departmental lease forms at Muskogee?" "Yes," I said, "I did." "Well," he said, "here's \$400.00 and here's the descriptions, here's the name of these Indians, here's my card," and he scratched something at the back of it and said, "Take that to that livery barn at Okmulgee, and go and get these leases for me." I must have looked around in a sort of dazed condition of wonderment, but one of the lawyers made a signal to me unseen by Mr. Roeser, and I said, "All right," reached up and took out from under his arm the three sets of Departmental lease forms which he was still holding.

I left the office, but made some excuse to come back and got a few further directions. When I arrived at Okmulgee, I took the card which lie had given me to the livery stable and showed it to the liveryman in charge. He looked startled and said, "Yes, Bill Roeser's all right, but I haven't got any drivers, they have all quit to go to work in these damned oil fields where they can make four times as much as honest business like the livery stable trade can pay." I said, "Oh, that doesn't make any difference, I am used to horses. I can drive a team." He looked at me with a very suspicious air, and in a moment said somewhat tauntingly, "Well, a man that knows how to drive a team ought to know how to harness them up and hitch them to the buckboard. There's your team," he added pointedly.

I went back, and in three minutes had both horses harnessed except for the bridles. I turned them around and led them out of the stall.

That liveryman still was not fully convinced. He said, "In this part of the county we usually put the bridles on before we hitch a team to the buckboard." "Well," I said, "in the part of the country I came from we usually water a team before we hitch them up." He laughed and said, "I guess that's right. I will put in a sack of oats." Since we had got friendly, I told him the quandary we were in, that I had no idea where these Indians lived or how to locate them. "Yes," he said, "that's just like Billy Roeser, but he's a great fellow, and you get those leases for him, don't come back without them, because you will sure have law business if you make good with him." As we finished hitching the team to the buckboard, he gave a big grin and said, "I believe I have the dopesheet for you." He said, "Wait till I go to the telephone." He came back in a minute and gave me directions to drive about eight blocks and stop at a certain corner. "There," he said, "an old Baptist Indian preacher whom I just talked to will get in this buckboard with you and stay with you till you get those Indians signed up. I promised him \$10.00 a day and found." ("And found" meant all his expenses.) He said, "He's your man, and you ought to find the Indians in three days."

I drove to the point designated, picked up the old Indian preacher, and we drove over the country not for just three days but for seven days before we found the Indians. I had not used all of Roeser's \$400.00 and remarked once or twice that I had some of that money still left, but neither Mr. Roeser nor either of the lawyers in whose office I had a desk made any suggestion

concerning it, so I used part of it in the purchase of five five-dollar meal tickets at the Bismarck Cafe, thinking that my fee might be about the same as the Indian preacher's or approximately \$75.00, and that I was safe in using a third of the amount.

The day before Thanksgiving, Bill Roeser, as he had shut down operations in the oil field, came into the office and after some talk with some of the lawyers, came over to my desk and said, "Well, it's about time for us to have a settlement on that trip of yours for those Tecumseh leases." I fumbled in my desk and pulled out a statement showing the expenditures, and that there was a balance of a hundred dollars in cash. He immediately asked me what I thought my fee should be. "Well," I said, "I have no idea." But I thought that since the Indian preacher had got \$10.00 a day and found, that perhaps he would be willing to pay me about the same, which would leave me in debt to him about \$21.00, which I had been holding for him and had in cash in a drawer. I reached over to the drawer and laid down a twenty dollar bill and a one dollar bill. There was evidently some prearrangement about the matter, because, the lawyers for whom I was working as messenger, together with some other oil men, had gathered round and it was very evident that a couple of quarts of good Scotch whiskey had been uncorked and recently sampled. Mr. Roeser had evidently intended to give some sort of stage-play for the amusement of the company, but his naturally good heart and generous disposition could not be restrained. He reached into his inside pocket and handed me a draft for a

thousand dollars. I was naturally overpowered and could not get my bearings. I finally managed to say that it certainly could not be his intention to give me that for my services and that it was far too much, which was undoubtedly correct. "No," said Mr. Roeser, "I had already spent \$1,900.00 sending worthless lease grafters to get those leases and they came back with a cock-and-bull story that the Indians wouldn't sign. I knew all the time they were liars and I can tell you that you earned that fee, and you don't need to have any hesitancy about keeping that thousand dollars, because I just sold a half interest in those three leases to Charlie Page for fifteen thousand: you've earned your money, and I'll give you another job one of these days." This started me off as a lawyer. The other lawyers put my name on the door, and I was a full-fledged practitioner from that time on.

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Not long afterward there was the occasion of Bill's farewell party to the little shabby frame house which he first owned in the "Magic City" before he made his great strike in the Glenn Pool. A local magnate had begun the building of a pretentious cut-stone home with wonderful hardwood floors, marvelous doors, magnificent grounds occupying a whole city block. When he had the house practically completed, Bill sauntered in one day to his office and asked the cost of the new home. My recollection is that the waterworks magnate said that it cost him almost \$50,000.00. "Well," Bill said, "here's \$73,000.00 for a deed to it today and

possession tomorrow." The waterworks magnate was so overcome by the offer that he immediately acceded and Bill telephoned up to our office to have the deed drawn.

That night Bill gave a party in the old shabby-frame house. That very afternoon he had telegraphed to John Wanamaker's for five carloads of their best furniture, giving a general prospectus of the new home. Out at the party, in addition to several lawyers, there were Charlie Page, who was coming forward as an oil producer, Colonel Newell, Gene Crimmins, a great driller, and Frank Ritchey; and Harry Kerstetter, who ran the DeLuxe Gambling Parlor in the Robinson Hotel, appeared some time after midnight with his staff and furnished whiskey and turkey and roast beef sandwiches. The party became pretty hilarious toward daylight. Bill's much adored wife Ethel who had helped him in his dark days, even to the extent of running an oil camp boarding house, so the story went, had not been well and was back in Ohio visiting. Bill intended the new home and the new furniture as a gift and surprise for the adored Ethel, who was indeed a grand character. About the time the first streaks of dawn appeared, Bill seemed seized with an inspiration; he told us about all the wonderful new furniture and began to compare it with the cheap "battered old sticks," as he described them, which were in the old house. Gene Crimmins promptly suggested a bonfire celebration. Frank Ritchey kicked out a window, shoved the tables and chairs out through it and set the furniture afire. The startled neighbors called the fire department and no harm was done, except that there

was a little difficulty in preventing the issuance of warrants for disturbing the peace, to satisfy some of the more prominent members of the community.

A few days after this, I had occasion to attend a hearing in the police court. Bill was a great friend and patron of Harry Kerstetter and enjoyed a little roulette play as an appetizer before breakfast. He would occasionally invite me over to watch his play, and then to go to breakfast with him. In this way I became well acquainted with Harry Kerstetter and his partner, Ralph Deckard. Early one morning, about 5:30 a. m., there was a rapping on the little two-room apartment that I occupied, and I heard Bill's voice calling me "Judge," a title which he only conferred when slightly mellowed. I opened the door and Bill and Harry Kerstetter came in. I, of course, started to dress immediately, while they, in Bill's phrase, "laid the case before me." The police court in those days met at 6:00 a. m. in the morning. Harry explained that Pussyfoot Johnson had been raiding and that this had filled the local police force with the spirit of envy and discord, and that partly actuated thereby and partly to satisfy public sentiment, on the preceding night they staged a great raid on his gambling parlor. They threw a certain amount of furniture and material out the window and burned it in the street, to the edification of newspaper reporters and uplifters. The chief himself seized Harry's valuable roulette wheel. Harry said, "There is no trouble at all about that, the police and I are old friends, and when the excitement dies down they will return the wheel to me in A-I shape. However," he said, "there is one

you?" I said, "We haven't had to work at it more than an hour. Just whatever suits you." He had opened up the roll and took out the inside six bills which he handed me. They turned out to be hundred dollar bills. "Well," I said, "that seems too much." "No," said Harry, "ten percent for collection, there's \$6,000.00 in that roll." Money was loose then.

Early in the following year, Frank Richey, who was one of Bill's favorite drillers, said Bill had sent him over to tell about a claim he had against Walter Hennig of St. Louis. Frank had drilled about 1,470 feet up in Pawnee County for some outfit that ran out of money when he reached the top of the sand. Frank promptly shut down drilling operations and refused to proceed until his bill was paid. One day he received a telegram from Walter Hennig, the St. Louis magnate, which he understood guaranteed his account, if he would drill the well. He drilled in and it turned out to be a dry hole. He thereupon sent Hennig a bill for \$3,912.50. Hennig promptly "renigged" (renege) and claimed that he merely intended to pay for the cost of drilling in, which was one day's labor and would cost about \$100.00. I filed suit against Hennig in the Superior Court of Muskogee County, knowing that he came frequently to Muskogee. The Sheriff served him and he employed the best firm of lawyers in Muskogee. They promptly removed the case to the United States Circuit Court, which shortly thereafter was abolished by Act of Congress, leaving only the United States District Court to try civil cases. Judge Ralph Campbell was the Judge of the Circuit Court of the United States,

and both sides waived a jury and tried it before the Judge. The skilled, experienced lawyers would have made my path very difficult, had it not been for Judge Campbell's kind helpfulness; in fact the other side intimated once or twice that he was acting counsel for the plaintiff. When it came to the argument of the cause, they insisted that \$100.00 was all that Hennig owed Richey, and one of the lawyers who was very well acquainted with the Judge asked pointedly, "Just what did Richey have to sell? Why should he want to hold Hennig for about \$4,000.00? All he could possibly hire him to do was to do one day's drilling."

Judge Campbell had been a famous conductor of a bible class at McAlester before he was appointed to the Federal bench, and he replied, "Well, there is a certain wicked game that I know nothing of but I have heard it called stud-poker, and I understand that in that game it costs money sometimes to see the 'hole-card,' and I apprehend that what Mr. Richey had was the 'hole-card.' Mr. Hennig wanted to see it, and Richey showed him the 'hole-card,' and while this court is very inexperienced in gambling transactions, you may be dead sure that my judgment will be that Mr. Hennig is going to pay \$4,000.00 for seeing that 'hole-card.'" The Circuit Court of Appeals of the Eighth Circuit affirmed Judge Campbell's decision, 196 Fed. 779.

In 1907, we heard that Bill Roeser was the greatest independent oil producer in the United States, that he had eight to ten thousand barrels daily production and that he was one of the richest men of the country. He came in, one day, and explained to us his theory



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## Millionaire Wild-Catter

**WHEN BILL ROESER** took the Keeley cure for debts (bankruptcy) Colonel Newell commented that "An oil wildcatter ought to have more than one string to his bow." "Now," he said, "take a man like John T. Milliken, he's engaged in twenty different businesses. His prime activities and the game that he enjoys most is wheat speculator.

In those ventures he is generally associated with Frank Logan of Chicago, since P. D. Armour has died. Milliken was in with Armour when they squeezed Joe Leiter by buying all the wheat in the farmers' bins and filling all the freight cars in the country and delivering the actual wheat to Leiter at a price he couldn't pay. Then Milliken's other great venture is the gold mining business. He owns the Golden Cycle, in Colorado, and he expects to develop another gold mine in the Black Hills as good as the Home Stake. The oil business is entirely secondary with him and he pays little attention to it. The last time I was in St. Louis, however, he said he was surprised at the quick big profits we made in the Cleveland Pool (in old Oklahoma) and that he was going to expand, so some day we may have some law business for you. However, at the present time all our law business is handled by Milliken's St. Louis lawyers, who are good on railroad litigation but know nothing of the oil and gas game. When a real question comes up, I know that they will check the bet. Of course, anybody can examine these old Oklahoma Territory homestead titles where the only legal question that ever arises is something about the notary public having failed to affix his seal to as

acknowledgment. "

On the occasion of the sale of the Milliken Oil Company's interest, John T. Milliken stopped off in Tulsa, en route to Texas, to visit his wife's family, and for the first time we became acquainted with the stocky little Scotchman. He was fond of telling that he was born in the Pennyryle District in Kentucky, and that in the county where he was born worldly goods were scarce. He said that if a farmer there had twenty-five cents and a plug of tobacco he was well-to-do; that if he lost either the quarter or the plug of tobacco but retained one of them, he was still in moderate circumstances, but that if he lost both the quarter and the plug of tobacco, he was poor indeed. Afterwards we found that in a trial before a jury, Mr. Milliken never failed to convey the information that he had started life as a widow's son and that his first gainful occupation was as a boot-black in Paducah; from that he drifted into the grain business and became an active wheat speculator, in St. Louis. Mr. Milliken's pleasant demeanor and friendly grey eyes cloaked a massive intelligence and a power of quick and correct judgment in business matters, which gave us a little flash of what Napoleon must have been.

One of Mr. Milliken's great

characteristics was the promptitude with which he converted a decision into practical action, and not many months after he had told Colonel Newell that he intended to expand in the oil business he was the owner of thousands of barrels of daily production in Oklahoma, had constructed an oil refinery at Vinita and had completed his own pipeline from the fields to the refinery. Colonel Newell told us that with all Milliken's hard headedness and practicality he had a foible or gambler's superstition and intimated that it was Milliken's custom, or at least there was a supposition that it was his custom, in all important matters, to consult seers, something of a modern version of "the Witch of Endor"; but Milliken never admitted this practice, even to his closest intimates. However, he did have a great weakness for taking up patents, secret formulas, processes and other matters more or less veiled in mystery, and it's this trait that led to a mighty lawsuit which gave us our first big fee.

When he commenced the operation of the refinery at Vinita, the percentage of gasoline recoverable from a barrel of crude oil was pitifully small compared with the results under present day processes. Two enterprising gentlemen who were strong on the qualities of both faith and hope convinced Mr. Milliken that they were in the course of perfecting a process or secret formula which would result in a tremendous increase in recovery of the percentage of gasoline from a barrel of crude oil, and, if this were true, the venture would, of course, be profitable. Milliken made a deal with these men and permitted each one to subscribe for a million dollars worth of the stock of

his company, practically without personal or individual liability. The million dollar subscription was paid for by note for a million dollars, with the provision that it was to be paid exclusively out of dividends of the corporation, and that there should be no personal or individual liability against the maker. This entire transaction was handled in St. Louis, by Mr. Milliken's railroad lawyers.

The process required a great deal of mysterious work and the inventors or discoverers set up a laboratory in the Vinita refinery and conducted extensive mysterious nocturnal experiments. Milliken found these proceeding vastly impressive. He was particularly susceptible to the notion that laboratory experiments might result in great gain, since he was already in the wholesale drug business and had extensive laboratories in St. Louis and other cities.

The whole matter was kept a deep secret, even from Colonel Newell, who, however, had some inkling of it. The Colonel had been an old Shakespearean actor in his youthful days and had trod the boards in productions of Edwin Booth and Lawrence Barrett. His aesthetic training, however, did not blunt a strong practical sense, and he told us confidentially at various times that he feared that John (as he referred to Milliken), would get into some kind of snarl or jam with his inventors. Sure enough, one December day I had a twenty-minute long-distance conversation with Mr. Milliken calling from St. Louis. The inventors a few days previously had reached the point where they thought the invention was a

success and were negotiating with a large refining company for a sale of the process. Milliken was advised by a confidential employee whom he had so placed in the business that he could watch them. Milliken immediately taxed them with their breach of duty to him and they promptly claimed that they were free to dispose of the process as they desired and that it was far too valuable to give away to his company unless their interest was increased to two-thirds or at least one-half. Milliken promptly telegraphed them that they were discharged from any position with his company. They thereupon switched back to their original position and each claimed to be the owner of a million dollars worth of stock in the company.

Milliken, however, refused to have further traffic with them, as he said, and they threatened a lawsuit and a receivership for all of the Milliken interests in Oklahoma, claiming a large interest not only in the refining company but in the oil production. Mr. Milliken desired that either my partner or myself would proceed to St. Louis very soon for a conference. However, we immediately reached the conclusion that the threat of a receivership was not an idle one and could not be disregarded, and as the Oklahoma court had authority in certain cases to appoint a receiver without notice, the matter was the subject of anxious consideration in our office. We concluded that the most practicable move was to put in a long-distance telephone call for the Judge of the District Court of that District to advise him that in the event any suit was filed, including application for a receivership, that we desired an opportunity to be heard on behalf of the

defendants. We also sent a lengthy telegram immediately to the Judge, directed to each of the court towns in that District. We finally contacted the Judge by long distance in the court town of one of the counties somewhat distant from Vinita, and he said that he had just received our telegram and in the nick of time; that the suit had been filed apparently that morning, in Vinita, and the plaintiffs and their attorney were then present in court demanding the appointment of a receiver without notice. He stated that he had read out our telegram aloud from the bench and had set the matter for hearing for December 26.

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We thereupon apprised Mr. Milliken of the situation and he was elated over our vigilance and the thwarting of the plaintiffs' unfair effort to secure a preliminary snap judgment. He kept us on the telephone a half hour, telling us the history of the receivership fight he had been through in the acquisition of the Golden Cycle Mine. It was evident that he enjoyed litigation, and especially a receivership contest. It was agreed that I should proceed to St. Louis within the next few days, and he stated that he would have present his Denver lawyer, Tyson Dines, his St. Louis lawyers, and also a Chicago lawyer who represented him in transactions in which Mr. Logan was also interested.

When we secured a copy of plaintiffs' petition, we decided that the entire cause of action and right of ownership in the corporate stock were

based on the two promissory notes, for one million dollars each, given in payment of the stock subscription.

Back in 1907, I had taken part in the bitter and acrimonious general debate on the question of the adoption of the Oklahoma Constitution. This instrument was vigorously objected to by so-called conservative interests, on the grounds that it was too radical. It was said that many of the views of William Jennings Bryan as to the restraint of corporations had been adopted by the Constitutional Convention, and that legitimate business would be driven out of the State. One of the spokesmen who lent some support to this view was the Honorable William Howard Taft, then, as I recall, in President Theodore Roosevelt's cabinet. Indeed, after the adoption of the Constitution by the people, vigorous representations were made to President Roosevelt against the promulgation of a proclamation admitting Oklahoma as a state, on the ground that the Constitution was so radical that it violated the Federal Constitutional provision as to a republican form of government. In this debate, I had occasion to use a pamphlet issued by supporters of the Constitution in which the provisions regulating corporations were discussed. One provision in particular was designed to prevent the issuance of "watered" stock.

When I read the promissory note given in payment of the stock subscription of the plaintiffs in the receivership action, I immediately recalled the discussion as to the issuance of watered stock and the Constitutional provision prohibiting the same. I examined the provision ~d the

annotations, which cited several decisions from the Supreme Court of Alabama relative to a similar provision. Indeed, it had been said that the framers of the Constitution used the Alabama provision as a basis. Under these decisions I felt that we could maintain that the promissory notes were absolutely void, being in violation of the Oklahoma Constitution. This would defeat the right of plaintiffs to claim to be stockholders, and their entire suit would fall to the ground.

When we met for a conference in Mr. Milliken's office at St. Louis, the presence of the austere and experienced lawyers, two of them at least of national fame, slightly tended to overawe me in the beginning of the discussion. They did the talking and it was principally directed to the point of urging Mr. Milliken to accept an offer of settlement of the two plaintiffs for approximately \$750,000 cash. They feared that the claims attached to other properties, and said that in any event the stock was worth three for one and that Mr. Milliken was getting rid of plaintiffs as stockholder and also of all their claims for what seemed to be a moderate settlement. Finally Mr. Milliken stated point-blank that he desired to hear from his Oklahoma counsel and that he hoped I would discuss the entire matter, not merely the proposed settlement. One of the eminent lawyers rather sneered at this and said that he thought that the only matter before the conference was whether to accept the present offer or make a counter offer of less, which he regarded as a rash and dangerous move. However, I produced the Constitution of Oklahoma and read the provision

(Section 39 of Article 9, of the Constitution), providing: "*That no corporation shall issue stock except for money, labor done or property actually received to the amount of the par value thereof ...*" I read excerpts from the Alabama cases, one of which specifically discussed a stock subscription based on a note, similar to the ones under consideration.

The eminent Chicago lawyer then said, "Well, I think that has no application at all, and in any event there would be an estoppel." He said, "Do you want to take the responsibility of advising Mr. Milliken not to accept this safe settlement, which, everything considered, is a very modest one so far as figures go?"

This was slightly nettling, but I said, "The question of paying out Mr. Milliken's money is a question for Mr. Milliken to decide. The question of advising him as to his legal rights is one which I think lies within the proper province of his legal advisers. Since he has asked for my opinion, he wants me to give a genuine opinion, not an echo of some more learned and more experienced lawyer. My advice to him is that under the law these men cannot recover. "

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Charlie Painter, Mr. Milliken's confidential secretary and adviser, came into the room then to ask me if I desired to return to Oklahoma that night on the six p.m. Frisco, and, if so, he would get reservations. I turned to Mr. Milliken and said, "I have said my say. Unless you think it is necessary for me to remain over tomorrow, I will return

to Tulsa tonight. "

"Well," said Milliken, "I think that's all right. All you lawyers have said your say, and now I'll say mine, but I can get through before that six o'clock train." Then he said rather humorously and, slightly to the annoyance of his eminent counsel, "I have a little story to tell. You know I have Scotch ancestry and I am very proud of the Scotch people. They have, of course, certain peculiarities, but one of them I greatly admire. The Scotch are a very religious people and they bring religion to their aid in all their undertakings, which I think is very wise. " He said, "Of course, they're ordinarily not rich, they live frugally and when one of the boys of the family arrives at a good age, it's time to consider when he'll get out and rustle for himself, and the day comes when he must leave home, and it is a very solemn and important event. On the day the Scotch boy leaves, they hold solemn prayers which the father leads, and then of course his mother and sisters pray for him and cry over him and kiss him, and he leaves the little home cottage. And his father walks with him down to the bend in the road, and just before he says his final farewell to him, it is the custom for him to whisper something in his son's ear." He said, "What he said in that whisper was for a long time a great mystery, but when I was in England and Scotland, last summer, I found out what it was. He takes him by the hand and puts his arm round him and puts his mouth close to his ear and he whispers, 'Jock, mak' money. '" And he said, "I'm going to decide this matter on that principle," and he said to me, "I'll meet you, Christmas day, at

Vinita, and we'll go on into the trial the day after Christmas. "

The St. Louis lawyers spoke up and said, "Why, Mr. Milliken , we'll try to get that matter deferred for a few days, as it is very inconvenient for any of our firm to go there on Christmas."

Mr. Milliken smiled blandly and said, "It won't be necessary for any of your firm to go down, on Christmas." This lawyer, with an air of great surprise, said, "Well, surely you'll have Mr. Dines there."

"No," said Mr. Milliken, "this young man's argument has appealed to me. It is my money, and I believe I will take the gamble on not paying it out. I'll be represented by my Oklahoma counsel. "

The lawyers said farewell to me, with a somewhat sullen air, and one of them endeavored to point out to Charlie Painter the rash folly of Mr. Milliken's depending solely on such advice. Mr. Painter, however, said that Mr. Milliken usually knew his own mind and he believed he would not attempt to dissuade him.

When I reported the result of the conference to my law partner, he at once said that we had, of course, assumed a very heavy responsibility, in view of the desire of the much more experienced lawyers to effect the settlement. Then we were in a considerable state of trepidation for two or three days. However, the following Monday after my return, we received the published opinion in the case of Webster v. Webster Refining Company, decided by the Supreme Court of Oklahoma, 36 Okla. 168. This case construed the Constitutional provision and cited the very Alabama cases on

which I had relied. The court laid down a transcendent provision: (p. 175)

The Constitution provides that the corporation shall not issue its stock except for a consideration equal to the par value thereof. This represents the public policy of the state. It is intended to bind the corporation. It is intended to protect the public. It is intended to put corporations upon a real substantial basis, *to prevent the watering of their stock*. The Constitution is one instrument of the people. The courts are another. *H* the courts require a corporation to do that which the Constitution says shall not be done, the judicial arm is antagonistic to the Constitution itself; and it would seem to be a simple proposition that the court will not compel that to be done which the Constitution prohibits doing.

Armed with this case from our own Supreme Court and the Alabama decisions, I felt certain that we could defeat the receivership, but I sensed from a reading of the opinion that our position was even stronger and that we might urge another vital matter. I accordingly found decisions of the Supreme Court of the United States which held that, in a case of this character founded on a contract contrary to public policy, the court should not only deny the receivership and all other relief but should of its own motion dismiss the case with prejudice, as an

attempt to involve the Court in a co-partnership with law violation.

I did not have the pleasure of spending Christmas at Vinita with Mr. Milliken, because the court continued the matter to New Year's day, and I confidently expected that the eminent attorneys would be present. However, on the day before New Year's I met Mr. Milliken and enjoyed a good dinner with him, at the Harvey House at Vinita. At one point in the conversation he inquired if nothing had occurred to change my opinion, in anyway, and I said that on the contrary something had occurred to strengthen it, and I took out the certified copy of the opinion of the Supreme Court of Oklahoma and handed it to him. He struck the table, with the hand, and said, "By George! That's a regular lucky black cat, and it shows that my hunch was good, although I give you full credit for the preparation and the idea." He said, "This ends it, and no matter what the trial court may do, I can and we will give a bond if necessary for five million dollars and we'll fight this through."

The next morning, we proceeded very amiably to permit the plaintiff to introduce their proof on the application for a receiver, then we demurred, and as we had the opening and closing of the argument, we certainly made a Roman holiday of their lawsuit, by reading the decision of the Supreme Court of Oklahoma. They began to cry out for morality and justice, and that they were at least entitled to reimbursement in the sum of hundreds of thousands of dollars. The Judge asked from the Bench if we desired to adjourn, to make any offer of settlement or pay them something, just as a

goodwill matter. Mr. Milliken spoke to us in a loud whisper, said, "No, they forfeited goodwill by their treachery. Let's fight it to the finish. "

I knew that the Judge enjoyed literary illustrations, so I said, "Your Honor, my client reminds me of the ancient maxim, 'that mercy is for the merciful, and compassion is for the compassionate. ' The facts already adduced show the bad faith and treachery of the plaintiffs. If they can get millions for their process, let them go and collect it. They will get nothing from my client, except the butt end of this lawsuit." The Judge adjourned until 1:30, to read the authorities, and at that time the court entered an order denying the application for a receiver and dismissed the plaintiffs' cause with prejudice, for the reason that the cause of action violated the public policy of the State of Oklahoma. We walked back to the Harvey House, after the decision, to eat lunch, and there Mr. Milliken had a long distance call from St. Louis. It proved to be his St. Louis counsel inquiring if he did not want them to come down to attend the hearing on the following day (assuming, of course that the cause was still in course of presentation) .

"Oh, no," said Mr. Milliken, "it's all over. No receivership. Case dismissed. I'll tell you all about it tomorrow. I am returning to St. Louis this afternoon. "

As we walked toward the Pullman coach, Mr. Milliken said to me, "Well, you did a good job. What do you think your fee ought to be?" "Well," I said, "it didn't take long, but it was rather an important matter. Would \$5,000 be too much?" Mr.

Milliken's gray eyes gleamed with a friendly flash. He pressed my hand and said, "Young man, if you send in your bill for \$25,000 for this job, I'll use my

influence to have it allowed. To tell the truth it's worth that to me to have the laugh on my lawyers."

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## Roxana I

"GREEK: RHOXANE, DERIVED FROM THE AVESTAN, BEING THE LANGUAGE OF THE AVESTA, IN WHICH IT IS SPELLED ROAXSHNA, SIGNIFYING BRILLIANT. IN FRENCH: ROXANE. LATIN: ROXANA. CF. ROXANA, WIFE OF ALEXANDER THE GREAT. "--DICTIONARY

IN DAKOTA territory, women's names followed a well defined pattern, such as Mary Ann, Jane, Maggie and Libbie. The strange combinations of today taken from the movies were unknown (fortunately) and would have been then and should be now the objects of violent derision. The theater, in Dakota, did not attract great stars like Richard Mansfield; but in Chicago, I sat in the second gallery and enjoyed his rendition of "Cyrano de Bergerac," and for the first time in my life heard of the name "Roxane." Later, a most gifted lecturer, Dr. Henry Austin Adams gave a two-hour discussion of the play, before the student body in Washington Hall, at Notre Dame, and analyzed the character of the "blue-stocking heroine," who, of course, fell in love with the handsome fellow, Christian, and overlooked Cyrano until too late.

These two events gave me a certain familiarity with the word or name "Roxane." Henry Austin Adams instructed us in the etymology and told of Roxana, the wife of Alexander the Great. I did not hear the name mentioned again until a hot August day in Tulsa, in our law offices in the old First National Building, at Second and Main (now tom down).

When we got the big John T. Milliken fee, we discussed various investments, such as oil leases, royalties and good close-in Main Street comers, but with the lawyer's bent for

quarantining himself against making any money, we spent almost the entire fee in a totally different manner. We bought the entire Reporter System from the West Publishing Company, the L. R. A., old and new series, the Trinity series, the Federal Reporters, the Lawyers Edition of the Supreme Court of the United States Reports, the Federal Cases, Wignore on Evidence, Greenleaf on Evidence, and every textbook or set of books that my law partner could hear of, from the affable and genial law book salesmen who made our offices their headquarters for a full

month. The thousands of volumes required new bookcases. These bookcases required a complete set of new office furniture, fine mahogany desks and the biggest library table in the State of Oklahoma. This, of course, necessitated the expansion of our office space, and we rented many additional rooms, had partitions removed, and only stopped expanding, as Charlie Page said, when the money ran out. Mr. Page commented on our financial stupidity and reminded us that we won the big case with law gathered from a printed pamphlet. James Cottingham, the general attorney for the Santa Fe, had previously appointed us counsel for the railroad, and was very proud of the new office. However, he expressed his view that it was more suitable for a state library than for private practitioners, since - the subscriptions to new volumes would run into hundreds of dollars monthly. We, ourselves, were convinced that we had not shown very good judgment, from an investor's stand-point, but consoled ourselves with the idea that we had gratified our whim.

However, the big office and the fine library eventually were an important factor in getting us some really important business. One very hot afternoon in August, we were busily engaged in drafting the articles of incorporation for the Sand Springs Home, the great charitable enterprise which Charles Page had founded with the million dollars he received from Commodore E. C. Benedict and associates for his Glenn Pool leases. We had other important matters and were using the services of eight stenographers and working every night in the hot

summer weather, until 10:30 p.m. We were under something of a strain with the large office business and heavy court dockets and were slightly annoyed when our good friend and client, Wallace N. Robinson, the owner of the Hotel Tulsa, called us on the telephone and said that there were two very important gentlemen in the president's suite at the hotel, who desired both of us to come immediately to the hotel, to consult with them. We rather brusquely rejected this invitation, but one of them, who introduced himself as Richmond Levering, took the phone, and to a certain degree apologized for peremptorily summoning us to the hotel. He explained that his associate, as he termed him, was a titled Englishman, and that in England it was the custom for lawyers to come to the residence or office of the client. He then asked if he and his associate could interview "*both members of the firm*", if they came over to our office, and wanted to know how long we would be in the office. My law partner told him rather curtly that we had a great deal of important business which was pressing, that we were in the habit of being in the office until 10:30 p.m., and that we didn't turn anybody away, although our interview's with prospective clients were necessarily somewhat short.

Mr. Levering appeared promptly and introduced us to a foreign looking gentleman, who styled himself, while in Tulsa, Mr. Marcus S. Abrahams, although he pronounced his name Abrams, and omitted the "Sir" which we understood he was entitled to use. Levering told us later, that Abrahams was a brother-in-law of the Lord Mayor of London. They stated that they were

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entering into contract for the purchase of producing oil properties, for a consideration of approximately one million dollars, and were, of course, doing a certain amount of investigation, before employing lawyers. It was evident that the office and the library made an impression, and after a few minutes conversation, Mr. Levering asked if they might have the services of one of our stenographers, and he dictated a cable signed by Mr. Abrahams, advising \_ that they had employed our firm as attorneys in the new venture. The telegram was addressed to H. W. A. Deterding, St. Helen's Court, London, England. We immediately called up the attorneys for the vendor, and before midnight, that day, had completed the draft of a contract of purchase which was duly signed, and on the following day, began the examination of approximately fifty abstracts of title. The contract provided that the conveyances should be made to the nominee of Marcus S. Abrahams. It was decided that we should proceed to organize an Oklahoma corporation, to take the assignments. The question of the name of the corporation delayed the matter for two or three days, and finally we accepted an invitation to visit the hotel suite, and - had the pleasure of having tea with our clients and of meeting the wife of Marcus S. Abrahams. It developed that the invitation really proceeded from the desire of this lady to interview us as to the name of the new corporation. When we told her that practically the only limitation on the selection of a name was the matter of the use of the same name by a corporation which had already been organized, she

immediately showed signs of pleasure and animation. She then stated that she had been given the privilege of naming the new corporation, and she desired the name to be "Roxana," informing us that this was the name of the wife of Alexander the Great. We proceeded to call the office of the Secretary of State, on long distance, and immediately secured the information that the name had not been used for an Oklahoma corporation, and that night the articles of incorporation duly signed went forward, providing "that the name of this corporation shall be Roxana Petroleum Company."

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Richmond P. Levering, as we learned from him, and from some other oil men who were acquainted with him, had been a great figure in the international petroleum trade. He had made and lost fortunes, and could lecture by the hour on what he termed the four grand divisions of the oil business, to wit: production, transportation, refining, and marketing. He had a truly encyclopedic knowledge, and sat with us around the office, many hot August nights, indulging in his favorite whim of delivering lectures on the oil industry.

When the question of the issuance of the shares of stock of the new company came up, Mr. Levering asked us a question which indicated his surprise at our limited knowledge of international oil business.

He said, "Is it possible that you men don't know who your client is?"

We said, "We certainly do not. "

He said, "Then I'll tell you," and

he took a pencil and wrote the following: "Royal Dutch Shell Group, consisting of (1) the Royal Dutch Company, for the exploitation of oil wells in the Netherlands East Indies, a corporation having its office at the Hague; (2) Shell Trading and Transport Company of London, Limited."

My law partner immediately gave Mr. Levering a very prolonged, blank stare, which he interpreted as amazement over the fact that we were representing such a powerful financial group. However, he was speedily undeceived, as my partner said to me: "Well, I know of course that you have given some attention to Article 22 of the Oklahoma Constitution as to the ownership of Oklahoma lands by aliens. "

Mr. Levering immediately called for Mr. Marcus S. Abrahams, and they dictated a long, explanatory telegram to Mr. Deterding, at London, as to the question which had presented itself. Then, we received in the course of the next two or three days a peremptory cable from Mr. Deterding, asking us to cable him a one thousand word opinion on the subject. This, we finally did, and under Oklahoma decisions decided that the ownership of the corporate stock by the Royal Dutch Shell Group was not prohibited by the laws of Oklahoma, and that the company could proceed. Accordingly, the titles were taken and the company entered upon a successful career. Before becoming an oil producer in the Mid-Continent Field, Mr. Deterding took the precaution, of which we learned later, of having our one thousand word opinion carefully checked by eminent international lawyers in New York, and we were

considerably flattered when we saw their telegram of approval, at a later date. Henry Clay Pierce, president of the Pierce Petroleum Corporation, when we were in St. Louis, on some business for his company, congratulated us on our new connection. He said that he had been acquainted with the Royal Dutch Group for many years, since both his company and a Royal Dutch subsidiary had for years been large producers in Mexico. He said, "They are very fine people, but they have adopted some English business customs which at times seem strange to Americans." He said "Their field superintendent in the Panuco Fields was a very efficient Texan named Bill Jones. "I had known him at Houston, and on one occasion I visited with him in Tampico, shortly after he had gone into his employment by the Dutch Shell. I, of course, inquired as to how he liked the new job, and he said it was very fine as to pay and treatment, but one episode had disturbed his equilibrium. They had the misfortune of having a very bad pipeline break. Bill Jones loaded men and machinery on a train of flatcars and gave the engineer orders to pull at top speed for the scene of the pipeline break which, of course, was covering the surrounding country with thousands of barrels of oil, at a great loss to the company. When they got to a little Mexican railroad station, about four miles from the scene of the break, the engineer stopped the train. Bill Jones was badly mystified and got one of his Mexican assistants to give the engineer what was in effect a good cussing. The Mexican engineer very promptly pointed to an Englishman, high in company affairs, who he said had given

him the orders. Bill Jones immediately took the matter up with another Englishman, who had still greater authority; this man agreed with Bill and sympathized with his grievance and his angry irritation over stopping the train when they had almost reached the point where they could begin repairing the pipeline break. The Englishman who had given the engineer the orders stated that they stopped at this station, in order to have tea. Bill Jones restrained his just exasperation and temptation to conduct a first-class cussing match, as

he said, and appealed again to the man whom he called the higher-up Englishman. In a deprecatory manner the latter said, "Well, Mr. Jones, it will make but a few minutes delay and the English employees are expecting their tea, and after all, Mr. Jones, the tea had been arranged for." Mr. Jones said that it took him many weeks to recover from the grouch occasioned by this episode, but that he had learned that it was no use to try to get between the Englishman and his four o' clock tea.

*(The second part of this two-part article follows.)*

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## **Roxana II**

**IN 1913**, the great Cushing Field was discovered. The pipelines were unable to handle the oil, and our client, Charlie Page, attracted a good deal of attention by compelling the Standard Oil Company subsidiaries to accept his oil as a common carrier under the statute of the United States and the "pipeline decisions." The subsidiaries made the conditions of acceptance of oil somewhat onerous, but J. Edgar Pugh finally arranged the matter so that by making tender of two fifty-five thousand barrel tanks of Cushing crude, on the same day we were able to get the proper credentials for transportation by interstate pipeline.

The tremendous over production of oil, however, resulted not only in legislation providing for conservation, but it also broke the price. Fine Cushing crude of forty-two gravity went down to forty cents, as the posted market price per barrel, and oil produced from the riverbeds as sold by the million barrels at as low as twenty cents and eighteen cents per barrel. The producers who had to build fifty-five thousand barrel tanks and make great expenditures to protect the lines by drilling offset wells were compelled to strain their credit at the banks, and it

was reported that some of them made forced sales at cut-throat prices.

One day, two suave workers walked into the office of the Roxana Petroleum Company and told the president that they had a great bargain. He summoned my partner and myself to the office, and before the day was done we had prepared and signed a contract for the purchase of two great oil bearing allotments of one hundred sixty acres each in the Cushing Field, for a price of less than one million dollars each. The allotments were full-blood Creek Indians, and accordingly were

each. The allotments were full-blood Creek Indians, and accordingly were classified as "restricted." It was necessary to have the assignments executed on departmental forms to be approved by the Secretary of the Interior. This was done, and the assignments were submitted to the Commissioner of Indian Affairs, the Honorable Cato Sells, at Washington, with a favorable report from the Indian Agency at Muskogee. For some reason, however the approval by the Secretary hung fire and it became my duty to go to Washington to "pep up" the proceedings (as Mr. Page usually referred to efforts to expedite matters before the Indian Bureau). Cato Sells, the United States Indian Commissioner, had been Democratic National Committeeman from Texas, and prior to that time he had been United States District Attorney in the State of Iowa, when my Uncle Dennie Lyons was something of a power there in politics, and I very soon sensed from a few remarks that he made that the approval proceedings had completely bogged down and that, indeed, there was grave doubt of our securing approval by the Secretary of the Interior within the time limit fixed by the contract.

A New York banker whom I encountered at the Willard had given me a box of Corona cigars, which ordinarily retailed at one dollar apiece. I stuck a half dozen in my coat pocket, and at my next interview with the Indian Commissioner, I took two of them and laid them on his desk in front of him. He picked them up and handed them back, saying that he had given up the weed.

"Why," I said, "Mr.

Commissioner, you have not permitted some medical practitioner to impose on you, have you? You certainly know by this time the limitations of doctors, and that when they are stumped on a case, they always advise the patient to quit drinking or smoking, or stop drinking coffee. "

Commissioner Sells, however, did not respond to this attempt at humor, but replied very gravely, "Judge, when I assumed this high office, I felt that it was my duty to give an example to the youth of our land," and he proceeded to deliver a very compact little homily on the power of example, and how much greater it was than the power of precept. I did not indulge in any indecorous mirth, but I said, "Mr. Commissioner, applying your homily to my troubles, I wish that you would demonstrate the power of example to me, since I know that it would be inappropriate for you to deliver a precept to me on how to get out of my troubles, *re* this approval." The Commissioner then demonstrated that he was still a pretty good Scout, even if he had quit smoking. He took me by the arm to a window, pointed toward the White House, and grasped my hand as a signal of farewell.

I immediately went to the office of a distinguished United States Senator, whom I had supported vigorously at the Democratic State Convention of 1912. He had powerful opposition in the Democratic Primary, but was successful in being renominated and reelected. I gave him a brief survey of the matter, and he very concisely suggested that he thought that the old principle of determinism suggested by Goethe in his "Essay on Nature" might apply. "In –

other words," said the Senator, "where you see an effect, you are usually justified in assuming that there is a cause. Things do not happen by chance. Someone is doing something to prevent the approval of your assignments and it is, of course, barely possible that it is some oil group which does not desire the competition of your clients. However, I am an enrolled Indian myself, and I want to see my tribesmen of the Five Civilized Tribes get the high dollar for their patrimonial estate. I have an invitation to take lunch with the President of the United States, today, or at least I will have in the next five minutes, and wonder if you would like to accompany me."

I said, "Of course, this would be an honor beyond my merits and deserts, but would accept." We had a very delightful time with the President at the luncheon table. An Oklahoma Congressman who deeply resented the President's support of certain legislation complained to the President that the new law encroached on states' rights. He finally said in a very high voice, audible for half a block, "Mr. President, don't you think that if that trend of legislation is continued eventually the state of the Union will be just like little country townships? They can't even hire a school-teacher without applying to Washington." President Wilson waited a moment and answered in a very suave tone, but with a slight note of irony, "No, Mr. Congressman, I don't think so. I don't believe there's any danger that the day will ever come in the United States when a country school-teacher can't be hired without an application to Washington. I know that I shall resist any such attempt, with all

my power." There was a considerable gale of laughter around the table over the exchange between the President and the Congressman. My friend, the Senator, conversed briefly with Mr. Joseph Tumulty, and when the luncheon was over the President received the Senator and myself in his office. The Senator made a wonderful presentation of the matter and stated that there could be no objection to the approval of the assignments on the ground of the alien ownership of stock in the Roxana Petroleum Company. He quoted from memory from the Constitution of the State of Oklahoma, which disclaimed all right and title in lands within the State owned or held by any Indian. He went on very vigorously to say that he was an Indian himself, and that he desired his tribesmen to have the benefit of competition in the disposal of their patrimonial estate. He turned to me and inquired as to the amount of consideration being paid for each of these one hundred sixty acre allotments. I said, "Approximately one million dollars. "

"Why," he said, "I had no idea the matter was of such magnitude." Then he made a slightly perceptible signal to me, with his fingers, and arose and thanked the President for his courtesy and asked leave to withdraw. As I walked toward the exit from the White House outside the President's office the Senator overtook me and he did not hesitate to light one of the Corona cigars which I tendered him. He laughed and said, "I do not believe you will have any further trouble. I did not suggest that the President communicate with a certain high official, but I do suggest that you call the Commissioner.

When I got the Commissioner on the phone, he was jubilant and said, "I have sent the assignments with my approval and recommendation, to the Secretary of the Interior. I am advised that they will be approved and back here by 9: 30 in the morning, and if you come by I will waive the ordinary rule which requires us to send them back to the Indian Superintendent at Muskogee, and will deliver them direct to you. "

I telegraphed the president of the Roxana immediately, and the next day telegraphed him that I had the assignments and was returning to Tulsa. He was very congratulatory over the matter and said that the London office was highly pleased because of the ruling of the Secretary of the Interior in approving the assignments, because, of course, this created a precedent for the future and determined the policy of the United States in favor of the company's contentions that the alien ownership of the corporate stock did not bar the corporation from the acquisition of Indian lands. The president then said "Well, they will have a big celebration over this, in London. "

In view of the delivery of the assignment to me, the Roxana took immediate possession of the two allotments, and their field superintendent proceeded with the drilling operation which had already been initiated to test the Dutcher Sand

below the Bartlesville. The Dutcher Sand well came in at 19,000 barrels per day. This, of course, was only flush production and would holdup for only a few days, but nonetheless it was a pleasant item for the president of the company to telegraph to St. Helen's Court.

A new president of the company had just arrived from The Hague. He had been high in the Netherlands government, but the Oklahoma newspapers had considerable difficulty with his name. He handed us a beautifully engraved card which bore the following inscription. "W. I. A. M. van Waterschoot van der Gracht, President of Roxana Petroleum Company of Oklahoma." He was very affable, spoke English perfectly, as well as many other languages, and had a good sense of humor. He said, "I have just received a long cable from Deterding. They are highly pleased in London over the approval of the assignments and the new Dutcher well. I am sending a cable today, informing them that the price of Cushing crude has advanced fifteen cents per barrel. When they receive that, there will be a real celebration at the four o' clock tea at St. Helen's Court. It will consist of excellent Barbadoes rum. Each of the directors will spike his tea with a tot of rum and drink a health to the 'S Gravenhage--the Count's hedge."

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## Trolley to Tulsa

### *The Algeresque career of a Baltimore street car motorman*

**WHEN I** first saw Tulsa in the summer of 1907, it was a town of about 10,000 people, who milled up and down both sides of the "Magic City's" Main Street, on the hot July evenings between six o'clock in the afternoon and sundown. There were isolated blocks of paving, but these did not prevent the wind from whipping the sand into the air and into all the restaurants. Even ham and eggs was garnished with fine grains of sand and eaten to the music of the buzzing of many flies. Even so, the crowd stood in line a hundred deep to get a plate of ham and eggs or bacon and beans.

About Christmas, 1907, the jewelry store (there was but one) displayed a magnificent diamond tiara in the store window, bearing a placard stating,

*"Price \$12,500. The gift of  
Alphaeus Reckard to his bride.  
Marriage ceremony to be  
performed in the ballroom of the  
Robinson Hotel, at high noon,  
on New Year's Day. All  
tool-dressers, roustabouts,  
drillers and drilling contractors*

Mr. Reckard had been a substantial oil operator in the West Virginia fields, but on one Christmas day, at his residence in Pittsburgh,-- after protracted dissensions with his wife, he delivered to her a deed to the home and all his personal property; then he took a dollar bill out of his pocket, emptied his wallet, and said he was leaving to start life again. He went to Spindle Top and had no luck. Later, in the Indian Territory phrase, he met up with Mrs. Zula Harris, who operated a boarding-house in one of the Texas

fields. His wife had divorced him and he secured money and credit from Mrs. Harris and came to Sapulpa, where he secured an "overriding interest" in some leases. He made a strike, and the diamond tiara was a token of love and affection to his bride-to-be, Mrs. Zula Harris.

As the Glenn Pool money poured in, the town became paved, and some social distinctions began to be noted. People who had money went to Colorado for a summer vacation, to get *respectfully invited.* n

away from the heat. They also went on holiday trips to the Hotel Baltimore, Kansas City, and both of these matters were items of social discussion. The plays enjoyed in Tulsa were "The Round-up," and later "The Lion and the Mouse." Then the musical comedies began to appear and they furnished topics of conversation for the socially elite at the newly built wooden country club. There were a few automobiles in town, principally the Reo and other familiar cars, although a Pierce Arrow had made its appearance. A big car was a badge of social standing, and a

membership in country club was

equal to Ward McAllister's hallmark. The Magic City began to outstrip Muskogee, in population.

In 1912 or '13, Tom Slick, known as the "king of the wild-catters," drilled a 2500-foot test in western Creek County. The log of the well omitted any reference to the Bartlesville sand. However, Tom Slick and his geologist were aware that he had encountered the Bartlesville, although it was not productive of oil. Later, when some question was made as to the omission in the log, Tom Slick testified, "Yes, I left the findings of the Bartlesville out of the log, I wasn't living on coffee and chili and sitting up all night taking one drilling tower myself to find news for the big stiff working for the major oil companies in Tulsa, who got their information by sitting glued to their chairs." Later, in 1913, the Bartlesville sand was discovered, in what came to be known as the Cushing field, although the town of Cushing was located in the county west of Creek-County where the field lay. This was considered at that time the greatest and most prolific oil field in the world, and it made many new millionaires, and stimulated the growth of the "Magic City." Speculators came from New York, London, and The Hague, and from every state in the Union, to get in on the great oil strike.

There are many interesting tales, but one of the strangest concerns Josh Cosden, a young man who in the days of the Glenn Pool, when Bill Roeser was the oil king, was still performing his duties as a street car motorman in Baltimore.

The great influx of men and people changed the social trend in

Tulsa. Colorado, as a vacation ground, although the climate had not changed there, was considered too bourgeois for the Cushing millionaires. The Baltimore Hotel at Kansas City was never mentioned. Instead, they spoke of "the Waldorf in New York," and referred to "Laurette Taylor," "Peg O' My Heart," and the "Follies" and the "Winter Garden." The only automobiles in which they could ride were the Rolls Royce and Pierce Arrow. They bought jewelry at Tiffany's. Their females shone resplendent in diamonds and Paris gowns at the dances at the country club. If they talked vacations, it was a trip to Havana or Nassau, and a few even claimed to have had cottages at Bar Harbor. The literary taste had changed too. In the Glenn Pool days, the "Little Shepherd of Kingdom Come" and "Mrs. Wiggs of the Cabbage Patch" were literary items. Now, "Arnold Bennett" and "G. B. Shaw" were casually referred to, and the new novel which was the vogue was entitled "T. Tembaron."

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The young street car motorman did not start in Oklahoma as a member of the Country Club set. In some way he gathered up a little money in Baltimore, doffed his street car employee's uniform and got in on a shoestring, by investing in what was known as a "skimming plant" (a small ill-equipped refinery) at Bigheart, in the Osage Nation. He began - to make money and secured strong financial backing, in Baltimore. Then suddenly his property was wiped out and his prospects apparently ruined. An

"Oklahoma twister" struck Bigheart and scattered Josh Cosden's skimming plant over one-third of Osage County. The insurance was inadequate, and failure stared him in the face. However, with the knack or genius or talent for success which the brilliant individual seems to possess, he turned defeat to victory. He borrowed a thousand dollars on his life insurance, paid it down on an option for an old abandoned refinery at West Tulsa, rode the day-coach back to Baltimore and came back with money enough to get going again. Then the war came on. The demand for gasoline became imperative. The price soared. He raised more money and got in strong, at Cushing. His luck and success were so marked that he could buy new properties simply with an additional stock issue of his company.

One young lawyer who had a little shabby office a few years previously on the same floor with ours in the old First National Building, started to examine abstracts for a small company at cut-rate prices of three abstracts for twenty-five dollars. The manager of the company, largely as a matter of social pride, wrote him a letter stating that in addition to the small cash payment, he would be given "a carried interest" of one-eighth in the company holdings. This would entitle him to one-eighth of the profits, which at that time were, indeed, nebulous. However, it turned out that this company had a large acreage in the Cushing field. They managed to drill a test well which came in as a producer, and Cosden bought them out for \$12,000,000, netting the young lawyer \$1,500,000 for his carried interest.

Mr. Cosden, himself, built a

magnificent mansion in an aristocratic suburb of "the Magic City," and gave the community its first real taste of landscaping, tennis courts and sunken gardens. His mansion was designed by an Eastern architect and was, indeed, a thing of beauty. On the occasion of his floating the new stock issue, to buy the \$12,000,000 properties in the Cushing field he brought stockholders and directors from the East in a special train of Pullmans. A great banquet was held in the dining room of the new home, and a salary of \$1,000,000 was voted to President Cosden, and the directors were instructed to take out insurance on his life in the sum of \$10,000,000. Many of the Tulsa males began to appear rather shyly and coyly on Sunday morning in tail-coats and striped trousers, and some boasted that they had their clothes made in New York by Wetzel, but Josh raised the bet on all of them; he had 150 suits made by the leading London tailor. He had a fleet of automobiles, a half dozen Rolls-Royces and a half dozen Pierce Arrows.

John T. Milliken, the owner of the Golden Cycle Mine, who was wild-cattin' in Oklahoma, declined to go into partnership with Josh in the development of 20,000 acres. The deal looked good on its face, but Milliken said, "No. When they fly too high, it's only a question of time till they fall too hard." Milliken had bought 160 acres with an offset drilling for \$100,000. We had put the money in escrow, because there was a serious question as to the title being sufficient unless the deeds were approved by the County Court of Wagoner County. See *Harris v. Bell*, 254 US 103, *Stewart v. Keyes*, 295 US 403, to the effect that the

provision of the Act of May 27, 1908, is not intended to include a conveyance made by the guardian of a minor or incompetent heir pursuant to sale directed and approved by the court having control of the guardianship of the heir's estate. These decisions, of course, on the date when I had to act were still far in the future. An eminent lawyer had passed the title for Milliken's grantor, but we insisted on the approval by the County Court, and Milliken would not take the property and pay the money without our approval of the title.

While the application for approval was pending, two offset wells came in. Cosden, while en route to New York, stopped in St. Louis, between trains, and offered Milliken a million dollars profit for the quarter section. This was promptly accepted and Milliken closed the deal. Some details required attention at Tulsa, and Mr. Milliken came down and we attended to them. Cosden's legal adviser had great faith in the lawyer who had passed the title for Milliken's grantor and stated that he did not require the approval of the conveyances by the County Court. My law partner immediately got a letter from him, stating that our services were no longer required in that matter and that the purchaser, Cosden, and his attorneys would take it over, for such action as they deemed proper.

Milliken stayed over, to attend to some other matters, and a day after the sale was completed two other offset wells came in and the 160 acres was considered to have doubled in value. Some of the traders assumed that Milliken would be disappointed, but he

stated his philosophy very succinctly, saving that "No man ever went broke taking a million dollars profit in a week on a piece of oil property. I hope that Cosden makes a full million on it; I wish he would make ten million. "

It was some time later that we visited Josh in his marvelous New York offices, the entrance to which was considered a triumph of the architectural art. He occasionally sent us some law business, but nothing of striking magnitude. On one occasion, he invited us to meet a distinguished visitor, none other than the Prince of Wales, who was his guest at his Long Island estate, but we realized that this was slightly out of our depth and respectfully declined.

Then we heard rumors that Josh had gone into the cotton market. Milliken told us that he heard that our "deluxe" client, Cosden (so Milliken styled him), said that "making a million dollars a year was all right in Tulsa, but that in New York, with his social environment, he needed ten million a year." Milliken said, "I understand he made a killing in the cotton market, but if he goes back in again, my guess is his company will have another name. Josh made the mistake of going back in again, and sure enough he lost his company and his fine building in Tulsa. The name of the company was changed, and so was the name of the building.

He endeavored to start again, in Texas, with a new company, but it did not succeed. Several friends who had gone to Fort Worth reported that though he was still under 50 his face was lined like that of an aged man and his hair had turned completely white. Not long after, he died suddenly, on a train, en

route to Albuquerque, in an endeavor to regain his health. The news created a sensation in Tulsa, but it was in that era when it was fashionable to think that ignorance was a better thing than knowledge, and that skill and experience were merely a handicap. In other words, it was at the time when some publicist said, "Youth per se was a career."

I had purchased the *Tulsa Tribune* on the street corner and was reading the details of Josh's death. Two young sprigs of the law, whose principal assets as practitioners consisted of a college degree, came by, and one of them said jeeringly, "Well, I see that another great hero of the Magic City has died absolutely busted. Judge," he said, "can't you explain to

us why it is that nearly all the great men of that Cushing era seemed not to have sense enough to conserve their prosperity?" "Well, " I answered, "instead of explaining at this time, I believe I will remind you about the old saw to the effect that winning or losing is not important but it is how you play the game." And I continued, "The late Mr. Cosden took his college course outside the ivy towers. A famous orator, speaking of Abraham Lincoln, said, 'He had the inestimable advantage of never seeing even the outside of a college until he debated with Stephen A. Douglas, at Galesburg.' Mr. Cosden was a graduate of the school of able streetcar motormen-she never stopped driving ahead. "

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### Indian Cattle Bizzness

**IN JULY, 1908**, when the Democratic National Convention at Denver was drawing to a close, my money began to run short. For the first time in my life I had seen a charge of one dollar for ham and eggs for breakfast. I still had my "tourist-car" return trip ticket on the Santa Fe via Kansas City. So I took my "telescope" (a cheap capacious traveling bag) and walked down to the Santa Fe Station.

When I got back to Tulsa we immediately plunged into a trial which did not involve very much money, but was bitterly contested. A good, regular client of ours, the Cherokee Stockyards

Company, purchased beef cattle, slaughtered them in its Tulsa yards, and operated an embryo packing plant. The concern was a sort of offshoot of one of the banks of which Charlie Brown, the cowboy banker, was cashier, and Mr. Brown, as an old cattleman, was deeply

interested.

Two fine, big Texas cattlemen with booming voices who had run large herds on the Cherokee Strip until President Cleveland called on the military to prevent the grazing of Indian lands by stockmen, were operating a small ranch in the Osage. Two or three months previously, one of their cowhands had driven in about sixty head-of beef cattle and sold them to the Cherokee Stockyards Company. One of

the younger employees were in charge, and, he was readily convinced by the cowhand's statement that Colonel Gault, did not want to "fool with any checks," but wanted the money in cash.

Accordingly he went to the bank and got about eleven hundred dollars in cash, the purchase price of the sixty head of good beef steers, and turned it over to this cowhand of whom no more was heard except, that a friend of his said that he believed his address was somewhere in Chihuahua, Mexico.

Colonel Gault, the owner of the herd, immediately went to Judge James B. Diggs, then the leading lawyer of Tulsa, who had represented him when Perry, Oklahoma Territory, was a great cattle center. Judge Diggs immediately filed suit against the Cherokee Stockyards Company on the theory that the cowhand who received the money was not a properly accredited agent. Judge Diggs had become attorney for the Mellon interests and was compelled to be absent in Pittsburgh but his two very capable partners presented the case, and as the jury was largely made up of cattlemen and their sympathizers, things looked bad for us. Charlie Brown, who still wore boots and spurs in the performance of his duties as bank cashier and rode eight miles morning and night to and from his ranch, was a fine bowlegged specimen of a cowpuncher who had graduated into a ranch owner. He was particularly worked up over this case since he felt that the negligence was entirely on the part of Colonel Gault, although the laws seemed to favor the plaintiff's contention.

However, we finally got a break in the lawsuit. Colonel Woodley, who

was Mr. Gault's silent partner, took the stand to testify in a general way as to the custom and manner of payment for a bunch of cattle brought in by an employee. During a lull in the proceedings, I heard Colonel Woodley say something to Mr. Gault, using the name Stribby. I asked Charlie Brown about Stribby and he said that was a mere nickname, that a cattleman who was also a great promoter, named Dirman, bragged so much about his grazing leases and his cattle in the Cherokee Strip that he was given the name of Cherokee Strip Dirman. The nickname was shortened finally to Strip and then changed to Strippy and finally to Stribby. However, the mention of this name gave Charlie Brown an inspiration. He said, "Woodley knew Strippy; you might get a lead that would help us if you could ask him something about Strippy." On that hunch I asked Colonel Woodley, on cross-examination, if he knew whom this dishonest cowpuncher lad worked for in the past. He said he did and I then asked him to name some of the outfits where his "puncher" had worked. "Well," he said, "he worked for Stribby, for one, just as a venture." I then asked what kind of an outfit Stribby's was. "Well," Colonel Woodley boomed in a voice that could be heard a block, "Stribby was the biggest thief in Oklahoma Territory-- that's the kind of an outfit it was."

I then went on to ask him why he didn't warn Colonel Gault against a former employee of Stribby's, and to the amazement of his attorneys and the deep interest of the jurors, he said, "I intended to warn him and rode over there one Sunday to do so, but he had

gone off up to Coffeyville and that's the reason this accident happened."

We finished the case a little after midnight and the jury were excused to render their verdict the following day. On the following morning Colonel Marcum, the great criminal lawyer from Muskogee, was in our office chatting with his nephew, my law partner, Ben Rice. Charlie Brown had got into town on his saddle horse in good season and appeared at our office with two bottles of fine Kentucky Bourbon. This was not at all unacceptable to Colonel Marcum. Of course, the conversation immediately concerned the pending cause and speculation as to the verdict. Charlie Brown thought that the law was against us and that the plaintiff would recover a verdict, although he very vigorously stated his views of the injustice of such a result.

Gus Orcutt, an intermarried Creek citizen who had control of seven or eight fine allotments adjoining the city limits of Tulsa, had come into the office; as he and Charlie Brown had worked together as cowpunchers, they began some entertaining reminiscences. Gus told of the cowpuncher who had delirium tremens and who went to bed in a rooming house. His only preparations for bed consisted of removing his belt and pistol and laying them by his side. He slept fully dressed with his boots and hat on. He awakened suddenly and in the darkness saw a large black cat sitting on the foot of his bed, glaring at him with fiery eyes. He picked up his pistol and said aloud, "Cat, if you are a cat, you're in a hell of a fix," as he took good aim at the cat's head. Then he added, "Cat, if

you're not a cat, I am in a hell of a fix. "

Charlie, however, became restive and wanted news of the verdict. He accompanied me to the courthouse, although it was not yet 8:30 and we did not expect the jury to report until 9:00 o'clock. However, just as we walked into the courtroom, the jury filed in with a verdict for the defendant. Cashier Brown had difficulty in restraining his enthusiasm. He crowed like a rooster, then gobbled like a turkey, and shouted out, "Open the big gate, I am bringing them in alive" --this was an Indian Territory stock expression indicating jubilation. Gus Orcutt told us afterwards that gobbling like a turkey was a very dangerous thing for a man to do in the early days in the Creek Nation since it was the Creeks' signal of death defiance. Indeed one Creek Indian was acquitted of murder and his plea of self defense was allowed when the testimony showed that his assailant had gobbled at him.

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That afternoon Mr. Brown and Colonel Marcum again dropped in for a few minutes' chat. Mr. Brown expressed his renewed confidence in law, justice and court procedure, which had been badly shaken by the court's instructions in the cattle case. He also gave strict instructions to all of the employees of the Cherokee Stockyards Company to pay only by check made to the owner of the cattle. He recounted again with great glee the testimony of Colonel Woodley as to Stribby and very properly attributed our success in the lawsuit to this particular bit of

testimony. Colonel Marcum remembered that long observation in the courts on his part bore out Ralph Waldo Emerson's statement that in a trial the whole event frequently turns on just a short statement. He thought it remarkable that a retired scholar should have had such practical knowledge of contested cases. We endeavored to get him to tell some tales of criminal trials before Judge Isaac Parker, the great hanging judge at Fort Smith, but we could not arouse his interest. He said finally, "The only Fort Smith case that comes to my memory at this time is a civil suit, a cattle case where I got a terrible beating and they had a Kansas Yankee as a lawyer for the other side. I sure thought I could win that case, with a few minutes' speech about old John Brown, the old Abolitionist maniac who murdered people in cold-blood and afterwards was practically deified up North. However, I got a bad beating, in complete surprise; I haven't forgotten it yet. "

"Did any of you boys hear of the Ed Yoak case?" Gus Orcutt and Charlie Brown said that they had heard something about Ed Yoak having been assassinated by someone who stood outside his window and "filled him full of buckshot." The whole case was shrouded in mystery, and it was understood that there had been several killings, as they were called in Indian Territory, in reprisal, but it was never known for a certainty that the right man had been killed. Ed Yoak was a Texas cowpuncher who had become an intermarried Cherokee citizen and cowman although his means were slender. It was not long before he had thousands of head of cattle grazing on

the rich grazing lands of the Cherokee Nation proper, which of course was a totally different area from the Cherokee Strip. It was whispered that the cattle really belonged to a big Texas cattleman named Houston Hancock, and the case of Hancock against Yoak at Fort Smith attracted a good deal of attention. No one but enrolled Cherokee citizens had a right to graze cattle on the lands of the Cherokee Nation. Yoak had sold a big bunch of cattle, and soon thereafter Hancock appeared claiming to be the owner of one-half of the herd as a secret partner and entitled to the proceeds. However, he was unable to prevail in the lawsuit at Fort Smith; Yoak retained the entire proceeds--whether rightfully or wrongfully was not of course fully known. Houston Hancock, however, was a man of substance, a highly respected figure among the Texas cattlemen; his friends had implicit confidence in his statement that he had furnished the cattle and that half of the herd was his property. His Texas friends also predicted to Colonel Marcum that he would not lightly bear the affront and injustice put upon him.

Colonel Marcum went on to say that a few months after Ed Yoak had been buried when interest in the crime had somewhat abated, a tall, bowlegged, gangling, rusty-heading, freckled-faced Texas cowpuncher named Bubb Bartoe set up in the cattle business in the Osage Nation. It became known that he had been one of Houston Hancock's favorite cowpunchers. There was a rumor that Mr. Hancock, in a moment of indignation recounting the unjust treatment he had received in the Indian Territory, said, "Bubb, over at Fort

Smith they made me swallow a big dose of Indian Territory justice and I didn't like it. How would you like to go up there and file a Texas counterclaim in the Cherokee Nation? You might develop into a cattleman, yourself." It was claimed that the United States Marshall's office in some way learned that about a month after the death of Ed Yoak, Bubb Bartoe received at Adair, Indian Territory, a draft for one thousand dollars. Bubb certainly became a Cherokee Nation cattleman and, in order to have an enrolled Cherokee citizen for a partner, made an arrangement with a one-eighth-blood Cherokee who lived in the Osage Nation.

"The partnership prospered and owned thousands of head of cattle. Then one day Bubb's partner died peaceably at home from typhoid fever, leaving a widow and several children and," said the Colonel, "it was the administrator of his estate who sued my client Bubb Bartoe. Three or four years had gone by and the herd had dwindled from thousands to hundreds. No administrator had been appointed as the widow had a good deal of confidence in Bubb. However one of her husband's friends, a Coffeyville banker, began to look into her affairs and had an administrator appointed with a suit instituted for an accounting. Bubb's regular lawyers got me to help try the case at Fort Smith. We proved that the herd had been destroyed by dengue fever, tuberculosis, hoof-and-mouth disease, lightning, wolves and coyotes, and by every other ailment or cause which kills cattle. We had some pretty good witnesses that Bubb had furnished, and everything looked pretty rosy."

"I must say that the Kansas lawyer, I believe his name was Bill Hackney, sprang a surprise on us. He had some pretty definite figures which the banker had got up disclosing that there were six or seven thousand head of cattle, lots of horses, saddles, and so on, owned by the partnership at the time of the death of Bartoe's partner. It was equally definite and certain that those numbers had dwindled to a few hundred. The explanation of the losses was at best somewhat vague and indefinite. The real question was the weight to be accorded to the testimony of Bubb Bartoe himself as he was the man who furnished most of the explaining. There was an atmosphere about him which was a bit unpleasant, sufficient to arouse the suspicion of sharp observers, but I thought that the jury would swallow his story. When I made my argument, I attempted to 'try' the Kansas lawyer and old John Brown, but I had a feeling that while the jury laughed and seemed to enjoy some of the old sure-fire expressions, they were somewhat unconvinced.

"Then this fellow Hackney got up and made the best short speech I every heard in my life. He did not raise his voice; he didn't smile; he didn't gesticulate and he didn't orate. He merely said,

**'Gentlemen of the jury, you have heard the testimony and you have seen Mr. Bubb Bartoe and listened to him. It all depends on whether his story is credible, or not. Frankly, I do not know. We do know that the partnership owned thousands of head of cattle at the time of the death of one partner, and that now,**

**under the exclusive management of Mr. Bubb Bartoe, there remains to his late partner's widow a half interest in only a few hundred head of cattle. Yes, it is true that I am a Kansas lawyer, but I am thinking of changing my residence and changing my occupation. I am considering moving to the Cherokee Nation, to go into the cattle business. I am giving it prayerful consideration although I am not a very religious man. I am glad, however, that one of your number, Brother Fletcher, who is a coal miner during the secular days of the week, is a minister of the gospel on the Sabbath, because he-- and I believe all of you--will be interested in my next point. When I move to the Cherokee Nation, to become a cattleman, I am going to become convicted of religion, and I expect to**

**pray, daily and nightly; and when at night I offer my petitions for the safety of my family and my herds and flocks, I shall not pray that my cattle be protected by Providence against lightning stroke, the wolf, the coyote, the rattlesnake, the dengue fever, cattle tuberculosis, or hoof-and-mouth disease-- I shall fear none of these dread scourges and epidemics. Instead, I shall pray, nightly and daily, that my herds and flocks will be protected from the Bubb Bartoe fever.'"**

The Colonel ended the tale by saying, "The jury was out, it seemed to me, just about thirty seconds, and came back with a verdict for the plaintiff, for every penny the plaintiff asked for. The Bubb Bartoe fever was too much for them."

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## **The Cherokee Strip**

### **THE RACE OF THE BOOMERS**

High noon with a fusillade of guns and a deep, hoarse roar,  
 With a panting of short, sharp breaths in the mad  
 desire to win,  
 Over the mystic mark the seething thousands pour,  
 As the zenith sun glares down on the rush and the  
 demon's din.

God! what a race; all life merged in the arrowy fight;  
 Trample the brother down, murder, if need be so,  
 Ride like the wind and reach the Promised Land ere night,  
 The Strip is open, is ours, to build on, harrow and sow.

There comes a horror of flame, for look, the grass is afire!  
On, or it licks our feet, on, or it chokes our breath!

Swift through the cactus fly, swift, for it kindles higher;  
Home and love and life--or the hell of an awful  
death.

So, spent and bruised and scorched, down trails thick-  
strewn with hopes  
A wreck, did the Boomers race to the place they would  
attain;  
Seizing it, scot and lot, ringing it round with ropes,  
The homes they had straitly won through fire and blood  
and pain.

While ever up from the earth, or fallen far through the air,  
Goes a shuddering ethnic moan, the  
saddest of all sad sounds;  
The cry of an outraged race that is driven other where,  
The Indian's heart-wrung wail for his hapless Hunting  
Grounds.

Richard Burton.

**THE REPORT** of Robert L. Owen, United States Indian Agent, dated August 27, 1884, gives the boundaries of the Cherokee Strip, or Outlet, as follows: on the east by the Kaws, Osages, Tonkawas, Poncas, Otos and Missouriias, and the Pawnees; on the south by the so-called Oklahoma District and Cheyenne and Arapaho country; on the west by the Panhandle of Texas and No Man's Land so-called (now the Oklahoma Panhandle); and on the north by the State of Kansas.

Indian Agent Owen of 1882 is now a distinguished United States ex-Senator from Oklahoma, and at the age of 90 still is successfully practicing law.

Marquis James' father, Judge James, made the run, September 16, 1893, the date when the Strip was opened to the settlers by proclamation of President Cleveland. Marquis himself spent his boyhood at Enid and presumably left that city in 1911. His book of 294 pages (The Cherokee Strip.

Marquis James. Viking. \$3.(0) is a history somewhat personal in part, but related also to many of the mighty sagas of that time.

A paragraph on the last page of the book is significant:

*The coach was hot and half empty. I shucked my coat, turned a seat around, put my feet on it, and opened a book. It was a novel by Balzac. I'd been reading Balzac all summer and would have to mail this book back to Mrs. Vandever, the librarian. I hadn't told ever her I was leaving.*

It has occurred to me, that Mr. James is a Balzacian and, of course, is familiar with the apogee theory of the great master. As I recall his statement it was that every man, every institution and every nation has an apogee and

then a decline. It seems to me that Mr. James had in mind that the apogees of the great Cherokee Strip had been reached and that the decline had set in in 1911.

Marquis James mentions nearly all the great characters who shed lustre on the Cherokee Strip during its period of reaching the apogee. Custer, at Fort Supply, where he had General Sheridan for his guest; the famous outlaws, Dick Yeager and Bill Doolin; the famous orator of Woodward, Temple Houston (son of General Sam), who himself stood trial for killing Al Jennings' brother; and, of course, a great many others.

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The great Chisholm Trail from Texas to Abilene, Kansas, is well described, and the Western Cattle Trail which led to Dodge City and Wyoming, is, of course, equally famous. It has been estimated that 10,000,000 Longhorn steers passed over these trails. However, the apogee was reached in the Cheyenne and Arapaho Indian country south of the Cherokee Outlet, when in 1886 President Cleveland ordered the military to remove the cattle and the cattlemen and their fences from the Indian lands. Soon thereafter the pressure of the "Boomers" compelled Harrison's administration practically to confiscate the Cherokee Outlet at a price of a dollar and a quarter an acre, in order to throw the lands open to homesteaders. The capitol of the Cherokee Nation proper was at Tahlequah, and there the Cherokee Council, in 1883, concluded a lease of the Strip to the Cherokee

Strip Live Stock Association for a consideration of \$1,000,000 per annum. A private syndicate offered the Nation, and made a firm bid backed by a cash deposit to the Cherokee Council, in the sum of \$18,000,000 sale price, but Harrison's Secretary of the Interior clouded the title of the Nation by asserting that the Cherokee title was imperfect and practically forced a sale by duress to the United States at a loss to the tribe of \$10,000,000. Those who are at all familiar with the history of the great Cherokee Nation feel renewed resentment, a renewed sense of humiliation, when they read of this shameful transaction.

The grant of the Cherokee Outlet as a hunting ground for the Cherokees, in addition to the domain of the Cherokee Nation proper, was a part of the consideration for the Cherokee Indian lands in the Southern states, when the tribe agreed to leave their homes and emigrate westward. This emigration, in the primitive conditions of that time, cost the lives of 4,000 Indians, and is still referred to in the Cherokee language as "the Illinois Fire," in Eastern Oklahoma, as "the Trail of Tears." So, it must be said that both President Cleveland and President Harrison made use of force to oust the cattlemen from the Cheyenne and Arapaho country, and also from the Cherokee Strip. This was indeed, the "cattle kingdom," and many of the famous cattlemen who had been dispossessed were operating in the Osage country, in 1907, and I heard a tale of their woes and their griefs. They claimed that this drastic action turned a lot of expert law-abiding cowpunchers into desperadoes and

outlaws. They were open in their sympathy for the Daltons, who rode to Coffeyville, in October, 1892, to carry out Bob Dalton's cherished ambition of robbing both the Coffeyville banks at once. They robbed the banks, but were all shot down in the street and only one lived to serve a term in the penitentiary. Bill Doolin and "Bitter-Creek" were also famous names, and it was whispered that even the great Frank Canton sympathized with Bill Doolin to the extent at least that he did not want him killed by the marshal's posse. Many cattlemen claimed that the redoubtable Mr. Doolin died a natural death from pneumonia and that the posse fired buckshot into the corpse, in order to claim the reward.

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Mr. James has two very dramatic passages, one, the incident of his father presenting the dead outlaw's pistol to the sister of Dick Yeager, alias Zip Wyatt, and the other is his father's story of "The Run." At this point it is necessary to say that one of the most delightful characters in the book, and the one on whom Mr. James pins most of the "tall tales," is Mr. Howell, who gently ended most of his stories of high adventure, with the remark that it happened when he was "with the Rangers." Mr. James's recollection of his father's story of the run seemed to me at first to have just a slight flavor of the tales of the esteemed Mr. Howell. Judge Houston James, at the time of the run, was crowding 49 years of age, and I got the impression from the book that he was carrying almost 200 pounds avoirdupois. He had bought a wind-

broken retired race-horse for the ride, and he rode 17 miles over the naked prairie, crossing the gulleys and coulees, in 58 minutes. Mr. James tells that a note of pride would touch his mother's tone as she told the tale and spoke the last four words, which were, "without injuring his horse." Judge James also had to watch out during the race, during the last part of his ride, for markers designating section and quarter-section corners.

Of course such a ride in 58 minutes could have happened. I once in an emergency drove a team of fine roadsters 18 miles in 61 minutes. These were animals out of broncho mares by a Hambletonian sire. We went over the best dirt roads in Dakota, level as a floor, and one of the mares was for four days so sick from fatigue, that recovery was doubtful. I still recall the terrible, pathetic stillness and rigidity of her posture, lying in the horse-lot, while we carried out gruel to her, and rubbed her every hour with liniment. Still I do not say that the James ride could not have happened, because the Cherokee Strip was a place of prodigies and marvels.

The region comprised in the Strip had been claimed by the Osages and finally conveyed to the Cherokees. The names of Coronado and LaSalle, and Sheridan and Custer, illuminate its history. It is still peopled with the ghosts of the ranches of the Cherokee Strip Live Stock Association, and nature still recalls the mighty days with dust storms, as in 1936, with a June hail storm as in 1921 or '22, and with a real blizzard as on February 24, 1912. So, a man who would question any marvel or prodigy occurring in that region

would display not only bad taste but bad judgment.

Mr. James's description of his newspaper experience and the printers is, indeed, enjoyable. The Strip had been famous for venturesome printers, even as far back as 1884, when the famous Captain David L. Payne, for whom Payne County is named, organized the "Boomers" and attempted to take possession of the Unassigned Lands in Indian Territory and the Cherokee Outlet or Strip, claiming that both were in fact government lands. Captain Payne's mother was a first-cousin of Davy Crockett, who died at the Alamo, and the Captain had some of the spirit of his famous kinsmen. He was correct as to his contention as to the Unassigned Lands, since they had been purchased by the United States Government, from the Creeks<sup>1</sup> and Seminoles, in 1866. However, the Cherokee Outlet was, in the opinion of all lawyers, owned in fee simple by the Cherokee Nation, subject to certain rights of the United States to settle other Indian Tribes therein, this condition being a penalty imposed by the Government on the Cherokees for their adherence to the Southern Confederacy. In 1884, Payne had assembled a colony in Kansas, and moved over into the Cherokee Strip. He determined to publish a newspaper in his home town, which he had named Rock Falls. Then young printers quit

work on the *Caldwell* (Kansas) *Standard*, and rode over to Payne's settlement. They found a shanty on which was tacked the following notice:

*Any person or persons printing or publishing, or attempting to print or publish a newspaper in the Cherokee Strip will be deemed guilty of trespass and will be subject to a fine of from \$1 to \$100 and imprisonment in a United States jail for from one to five year.*

**--Henry M. Teller.  
Secretary of Interior.**

Payne had named his paper the *Oklahoma Chief*, and offered the printers \$25.00 a week apiece and board, and the printers in fact did get out some issues of the *Oklahoma Chief*, but one evening after a big press run, Negro soldiers appeared on the south bank of the river, and all realized that the freedom of the press was in jeopardy; a strategic retreat followed.

All who know Marquis James's delightful prose style, from reading his wonderful biographies, "The Raven" and "Andrew Jackson," will expect much from any work of his. It is my opinion that all expectations will be realized by reading "The Cherokee Strip." It is written with delightful charm and skillful simplicity, and is, indeed, an epic of the last cattle kingdom.

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## SUPPLEMENT

### THOMAS D. LYONS\*

**WHEN** the glory of romance hung over the old Indian Territory, now a part of the State of Oklahoma, but then wholly undeveloped, this great expanse of land was a mecca for the young and ambitious men of the United States, who came in great numbers, especially from the universities of the East, the North, the South and the Southwest. On the western side of what is now Oklahoma there were vast fertile prairie lands: and on the eastern side, rough wooded hills, rich bottom lands and vast quantities of mineral wealth. Both of these regions, formerly Indian country, were gradually opened to white settlers: in the late "eighties" and "early nineties," a portion of the western part; and in 1901, the southwestern part, which was opened through the great lottery scheme of permitting each individual, under certain conditions, to draw for one hundred and sixty acres of land. Thousands of persons luckily won the farms. But among those who were struggling for bread and butter was a future oil country lawyer, Thomas D. Lyons.

Born in Burr Oak, Iowa, July 2, 1883, he is a son of Richard F. Lyons, a native of Poughkeepsie, New York, and of Sarah Agnes (Donlan) Lyons, who was born in Wisconsin. The paternal grandfather was Jeremiah J. Lyons, a friend, admirer and supporter of Stephen A. Douglas, particularly in 1860. His ancestry is full-blooded Irish from counties Clare and Waterford. Later the family removed to Iowa, where Thomas D. Lyons was born. Richard F. Lyons was a pioneer in Dakota Territory; helped to organize the Democratic party in that territory at Bismarck, now North Dakota; in 1889 was a member of the Constitutional Convention of the State of South Dakota; in 1892 was appointed postmaster by President Cleveland; was always active in politics, being chairman of the State Central Committee of the Democratic party; sent a delegation to Baltimore in 1912 favoring Champ Clark for President, which delegation was seated by the Credentials Committee but lost in the Convention; Mr. Lyons many times refused the Democratic nomination for Governor and United States Senator. Richard F. and Sarah Agnes Donlan Lyons are both living, being residents of Vermillion, South Dakota.

·from: OKLAHOMA: A History Of The State and Its People by Joseph B. Thobum and Muriel H. Wright. Vol. **m**, pp. 14-16.

Lewis Historical Publishing Company, Inc., New York, 1929.

As a boy, Thomas D. Lyons spent much of his time on a ranch in South Dakota. He was graduated from Notre Dame in 1904, when, with the vision and foresight which have always distinguished his actions, he decided that the Indian Territory, with its mineral resources and its timber, offered great possibilities for the advancement of young men, and came to Tulsa. Then there was formed the law firm of Rice and Lyons, which for years fought the battles of the oil men from the justice courts, through the district courts, the State courts, the Federal courts and the Supreme Court of the United States. Mr. Rice and Mr. Lyons were both admitted to the Supreme Court of the United States in 1916.

Meanwhile, the problems that came before them were typical of those arising from the opening of a new country. They devoted themselves, not to the acquiring of money and leaseholds, but to the actual hard, earnest practice of the law. Bred to believe that the life of a lawyer was honorable, that work was a reward in itself, Mr. Lyons gave of his health and energy the very best that he could give to his profession. The oil business of the Mid-Continent Field took on a great impetus in 1907, and along with it there came a tremendous increase in work for lawyers; for the proceedings of the United States Court for the Eastern District of Oklahoma during this period involved far more money than the proceedings of any district court in the United States. The State courts and the Federal courts were filled with litigation involving thousands, and often millions, of dollars. The office of the clerk of the United States District Court, sitting in and for the Western District of the Indian Territory, was crowded with applications for charters for proposed incorporations. The United States Indian Office, at Muskogee, Indian Territory, with hundreds of employees, was swamped with applications for leases on Indian lands. Many and varied questions arose, involving corporate action, title, contracts, injuries, damages, fraud, oppression, trickery, honest misunderstandings, murder, collections, insurance and others—all presented to counsel within a few years instead of during a lifetime. Great was the work for lawyers, and the rewards were by no means meager. The oil country lawyer charged heavy fees, and the oil man was a free payer. A great country was in the course of development; cities were growing; and in 1907, out of the Indian Territory and the Territory of Oklahoma there was formed the great State of Oklahoma.

Transactions in the oil business brought up unusual questions of law, especially since the business was new and the precedents were few. Oklahoma, adopting its first Constitution in 1907 and adopting the Statutes of the Territory of Oklahoma, and eliminating the laws of Arkansas which theretofore had been in effect in the Indian Territory, presented numerous complicated problems. The law of descent governing lands in the eastern part of the State was complicated, as was the question whether the

oil man could take a title, invest his money, many thousands of dollars, in the development of the property. Mr. Lyons has represented as general counsel Charles Page, Roxana Petroleum Corporation, Pierce Petroleum Corporation, John T. Milliken and a host of other active oil operators.

For many years, Mr. Lyons was in no way connected with anyone company, large or small, but was an actual practitioner of the law; ready, able and willing to draw a contract, try a murder case, enjoin an agricultural tenant, get a lease approved by the Secretary of the Interior, form a million-dollar corporation, keep some driller from being arrested by his landlord, get out bonds for the School Board, defeat an ordinance closing the picture shows on Sunday, advise the drilling of a well contrary to the orders of the Corporation Commission and beat the Attorney-General at his own game in the State court, and in the same court free defendants charged with blowing open the postmaster's safe. During this period, Mr. Lyons was engaged in eight hundred and fifteen lawsuits of more than ordinary importance, and handled contracts for the sale of oil and gas properties involving many millions of dollars. The result was that his practice gave a knowledge of the oil business almost equal to the oil man's. He was appointed receiver of the Riverbed leases in the Arkansas and Cimarron rivers by the United States District Court, Judge Williams presiding. His firm has investigated and reported on values and titles, conditions, efficiency, etc. in Canada, Mexico, Missouri, Illinois, Kansas, Oklahoma and Texas; and has aided and abetted in the building of a pipe line from Southern Oklahoma to Alton, Illinois, a distance of five hundred miles. Because of the absence of clients whose interests have been represented by Mr. Lyons's firm, there have been drilled under the firm's directions more than three hundred wells. In 1928 Mr. Lyons was allowed one receivership fee in the sum of fifty thousand dollars.

Along with his professional and business activities, Mr. Lyons and his partner, Mr. Rice, have found time to write and publish The Oil Operator in Oklahoma--the Law of Corporations--the Law of Oil and Gas, a book that has been highly commended and is in general use among oil country lawyers and corporation executives. Aside from his abilities as a lawyer, Mr. Lyons has at various times distinguished himself as an orator and politician of the non-office-holding class. He was in the United States Army, and has always taken great interest in the physical development of young men in America. He has spoken from the same platform with William Jennings Bryan. In 1920 he was a delegate to the National Democratic Convention at San Francisco, California. He served on the resolutions committee and shared honors with Bourke Cockran and William Jennings Bryan in addressing the convention.

He is president of the Lee Oil Company; director of the First National Bank of Tulsa; was a member of the Charter Commission to provide Tulsa with a city manager plan of government; was nominated in 1906 by the Democratic State Convention of South Dakota for the position of the State Superintendent of Schools; and beginning on April 9, 1923, was a member of the Supreme Court Commission of Oklahoma. At the time of the World War, he enlisted in the United States Army as a private, and was honorably discharged from the Infantry Central Officers' Training School, Camp Pike, Arkansas, on December 7, 1918. He now holds the position of captain of Company C of the Third Oklahoma Infantry. Mr. Lyons is an active member of many clubs and organizations, including the Delta Theta Pi Fraternity; the Benevolent and Protective Order of Elks; the Petroleum Club; the Country Club; the University Club of Tulsa, Oklahoma; the Bankers of America, New York; the Athletic Club, of New York. On November 30, 1925, Judge Lyons resigned from the Supreme Bench, and resumed the practice of law in Tulsa. He is still engaged in practicing law, but finds time for many civic activities as well. In 1927 and 1928 he served on the charter revision committee appointed by the mayor. This committee prepared a number of amendments to the city charter, which were adopted by the people. He now has under investigation the question of the managerial form of government. Mr. Lyons, in 1928, was honored by an appointment as Commissioner of the Supreme Court of New York in an important matter. He is still receiver for the Riverside Oil and Refining Company. Mr. Lyons, in his religious affiliation, is a member of the Catholic Church. He also is a member of the Knights of Columbus. His foremost hobby, when he is not busy with his legal and business interests, is agriculture. He is a life-member of the Oklahoma Historical Society, and is a member of the American branch of the International Law Association.

On September 2, 1915, Mr. Lyons was united in marriage with Clara Kennedy, a daughter of Thomas F. Kennedy, of Amsterdam, New York. By this marriage there is one daughter, Mary Kennedy Lyons.

*The End*

## SOURCES

Thirty essays<sup>1</sup> by Thomas D. Lyons appeared in *The Commonweal*, a journal published in New York since 1924 on public affairs, religion, literature and the arts. The eight essays on his Oklahoma experiences contained in this collection are marked with an asterisk.

Big Buffalo Hunt	33:441-3	Feb 21	1941
Big Injun Wagon-Box Fight	34:249-51	July 4	1941
Black Hills Freighter	35:216-19	Dec 19	1941
Cherokee Bill*	41:561-2	Mar 23	1945
Cherokee Strip by M. James; A Review*	43:47-8	Oct 26	1945
Dakota Blizzard	33:251-3	Dec 27	1940
Dakota Funeral	45:319-21	Jan 10	1947
Dakota Hail Storm	36:344-6	July 31	1942
Education in Dakota	33:536-9	Mar 21	1941
Flesh and Grass	35:336-8	Jan 23	1942
Going to College, 1900	33:653-8	April 18	1941
Hot Winds in Dakota	38:342-4	July 23	1942
Hot Winds in Dakota	44:235-7	June 21	1946
Indian Cattle Bizzness*	31:407-8	Mar 1	1940
Lake Badus Parish	37: 164-6	Dec 4	1942
Mandan	42:114-17	May 18	1945
Millionaire Wild-catter*	38:628-31	Oct 15	1943
Old Settlers' Picnic	37:441-3	Feb 19	1943
Pembina	34:417-20	Aug 22	1941
Pembina	36:538-40	Sept 25	1942
Politix in Dakota	32:443-5	Sept 20	1940
Prairie-chickens	37:612-14	April 9	1943
Preparedness, 1890	42:379-81	Aug 3	1945
Pukwana	42:401-3	Aug 10	1945
Pukwana	46:264-5	June 27	1947
Roxana 1*	35:557-60	March 27	1942
Roxana 11*	36:227-9	June 26	1942
Sick Mare	43:426-8	Feb 8	1946
Scorched Earth In Dakota	36:105-7	May 22	1942
Sugar Rations in Dakota	41: 190-4	Dec 8	1944
Trolley to Tulsa*			
West of the River			
Will Roeser*			

<sup>1</sup> The twenty two essays which describe the Lyons family pioneers from the time when Tom's father, Richard, led a wagon train of Irish settlers from Iowa to Dakota Territory in the 1870s are published in: **FIRST DAKOTANS: The Lyons Experience, Essays by Thomas D. Lyons.** Edited by Robert F. Lyons. Illustrated. 115 pp. Cambridge, Massachusetts 1991. \$14.50