

H.R. 2912, TO REAFFIRM THE INHERENT SOVEREIGN RIGHTS OF THE OSAGE TRIBE TO DETERMINE ITS MEMBERSHIP AND FORM OF GOVERNMENT.

LEGISLATIVE FIELD HEARING

BEFORE THE

COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

Monday, March 15, 2004, in Tulsa, Oklahoma

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ERNMENT.**

**Monday, March 15, 2004
U.S. House of Representatives
Committee on Resources
Tulsa, Oklahoma**

The Committee met, pursuant to call, at 10:00 a.m., in the Evergreen Room, Post Oak Lodge, 5323 West 31st Street North, Tulsa, Oklahoma, Hon. Richard W. Pombo [Chairman of the Committee] presiding.

Members Present: Representatives Pombo, Cole, Kildee, and Carson.

Also Present: Representative Lucas.

The CHAIRMAN. If we may come to order. I'd like, at this time, to recognize Congressman Frank Lucas for our opening and closing ceremonies here.

Mr. Lucas.

Mr. LUCAS. Thank you, Mr. Chairman. In a moment, we'll rise for Presentation of Colors by Dominic Brown, who is a Veteran of the U.S. Army in the Gulf War; also, John Williams, Jr., a Veteran of Operation Desert Storm and Desert Shield; and Romaine Shackelford, who is a Veteran of the European Theater during World War II. That will be followed by our singers of the Flag Song, Vann Bighorse, Mary Bighorse, Scott George, Kenny Bob Bighorse, Julia Lookout. Then, Chief Jim Gray will lead us in the Pledge of Allegiance. And that will be followed by Paul Stabler, who will deliver the invocation in the Osage language.

Mr. Chairman, if we might rise for the Presentation of Colors.

[Pledge of Allegiance.]

[Singing of the Flag Song.]

[Invocation.]

The CHAIRMAN. Well, thank you very much.

STATEMENT OF THE HON. RICHARD W. POMBO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

The CHAIRMAN. The Committee is meeting today to hear testimony on H.R. 2912, a bill sponsored by Congressman Lucas to

reaffirm the inherent sovereign rights of the Osage Tribe to determine its membership and form of government.

At this time, I'd like to ask unanimous consent for the gentleman from Oklahoma, Mr. Lucas, to be able to sit and participate in the hearing.

Without objection. So ordered.

Ordinarily, opening statements are limited to the Chairman and Ranking Minority Member. Because of the importance of this bill to members attending the hearing today, I will recognize each member present for 5 minutes in which to give any oral statement they may have. And, as always, members' written statements can be included in the hearing record under unanimous consent request.

The purpose of today's hearing is to examine H.R. 2912, which basically puts the Osage Tribe on the same footing as every other sovereign federally recognized tribe in the United States in terms of defining its own membership criteria and form of government.

The Osage appear to be the only federally recognized tribe by which a specific Act of Congress, which passed nearly a hundred years ago, dictates its form of membership and government. Whatever the historical and legal circumstances surrounding Congress' action, it's past time to consider letting the Osage Tribe decide how to govern itself as it sees fit, providing that no one loses any property or other vested legal rights in the process.

Under the Osage Allotment Act of 1906 and under subsequent Federal Court decisions, the only legal members of the Osage Tribe are the lineal descendants and those Osage persons living before July 1st, 1907, who also have what is called a headright share.

A headright share is a share of the royalties, the mineral development in the Osage Reservation. This has resulted in people who have a high degree of Osage blood from being members of the Tribe. It's safe to say the 1906 Act stemmed from a rationale that is far outdated. I hope today's witnesses will shed more light on the history of why the 1906 Act was passed, and whether H.R. 2912 would benefit the Osage Tribe and the Osage people as a whole.

I'd like, at this time, to recognize Mr. Dale Kildee, who over the years has been extremely valuable and very involved with a number of Native American issues. And I am very glad and very happy that he made the effort to be here for this very important hearing.

[The prepared statement of Mr. Pombo follows:]

**Statement of The Honorable Richard Pombo, Chairman,
Committee on Resources**

The purpose of today's hearing is to examine H.R. 2912, which basically puts the Osage Tribe on the same footing as every other sovereign, federally recognized tribe in the United States in terms of defining its own membership criteria and form of government.

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share." A headright share is a share in the royalties from mineral development in the Osage Reservation.

This has resulted in people who have a high degree of Osage blood from being members of the tribe.

It's safe to say the 1906 Act stemmed from a rationale that is far outdated. I hope today's witnesses will shed more light on the history of why the 1906 Act was passed, and whether H.R. 2912 would benefit the Osage tribe and the Osage people as a whole.

The CHAIRMAN. Mr. Kildee.

Mr. KILDEE. Mr. Chairman, with your indulgence, I yield first to Mr. Carson, and then come back to myself.

The CHAIRMAN. That's fine.

Mr. Carson.

**STATEMENT OF THE HON. BRAD CARSON, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF OKLAHOMA**

Mr. CARSON. Thank you, Mr. Kildee, for yielding. It's nice to be back in Osage County, which used to be my Congressional District. But I have to confess. The Post Oak Lodge was not in that place. That leads you to a brown field in West Tulsa. So, I apologize for my tardiness here today and to Chief Gray and to the other members of the Osage Nation. Thank you for being here and for excusing my lateness.

I'd like to thank our Ranking Member Kildee for his kind words and for yielding to me and Chairman Pombo for scheduling this hearing today, so we can receive testimony on H.R. 2912, which, as the Chairman said, is legislation reaffirming the Osage Tribe's inherent right to determine its own membership and also importantly its own form of government. I am a strong supporter of this legislation and a co-sponsor of Congressman Lucas' bill.

I would also like to welcome the witnesses here today, many of whom are my good friend. I look forward to listening to their testimony.

As the Chairman said, Congress passed a law limiting the membership of the Osage Tribe in 1906, long before any of us in this room were alive. This law was born out of an error in which termination and assimilation were the normal and accepted Federal policy toward Indians. At that time, it was expected that the Osage Tribe would fade and disappear into the dominant American society. However, and thankfully, that has not happened, and the tide in Federal Indian policy has shifted a hundred and eighty degrees toward Tribal self determination and self governments.

It is now time for Congress to reaffirm the inherent right of the Osage Tribe to determine its own membership and form of government. It is my hope that if this legislation is enacted into law, the Osage Tribe will be able to set their own membership criteria, thus welcoming many more members into the Tribe. And as a result, a greater number of current and future generations of Osage children will qualify for Indian scholarships, Indian health care, and other benefits reserved for members of federally recognized Indian Tribes. Additionally, Osage people will no longer have to wait for the death of a beloved family member before being allowed a voice in the tribal government. The Osage Tribal Council has attempted to establish its own membership criteria in the past. But it is now

clear that the ability to correct this age old matter lies with us in Congress.

I respectfully urge my colleagues to support H.R. 2912, and it's a pleasure to have this hearing today in the beautiful hills of Osage County.

With that, I will go back to Mr. Kildee.

The CHAIRMAN. Mr. Cole.

STATEMENT OF THE HON. TOM COLE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OKLAHOMA

Mr. COLE. Thank you very much, Mr. Chairman. It is a particular privilege for me to have the opportunity to be here as an enrolled member of the Chickasaw Nation, and particular opportunity for all of us to embrace and reaffirm the sovereign right of the Osage people and the right of all Native American people to self government and self determination.

As Congressman Carson said, there was a time, sadly, in our history when that was not the case. And I think it's a good thing that we moved well away from that. It's particularly important for us, I think, here in Oklahoma to re-emphasize the history of the different sovereign nations and tribes that have been part of our geography and part of our history for so long and to recognize what a critical part of our own imagine they are, what a critical part of our own past and present they are, and more importantly, what a critical part of our own future they are. It's a heritage that our state should embrace and celebrate. And frankly, the Tribe who has contributed so much now continues to contribute to increasing the economic prosperity, growth, and future prospects of the state, something we should never ever forget.

Particularly appreciative of Congressman Lucas for taking such an important lead role in this critical legislation. He embraces many tribes in his now enlarged district. He's been a selfless champion of those.

I want to join the Chairman in thanking my good friend, Representative Kildee, for making such a long journey to come down here, as well.

Mr. Chairman, thank you for seeing fit to hold a Congressional Hearing on this important issue in Oklahoma, and more particularly within the Osage Nation. So, I look forward to hearing the testimony, and very much privileged to have an opportunity to participate in this. I'm hopeful that Congress will act on this important legislation favorably and quickly.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you.

Mr. Kildee.

STATEMENT OF THE HON. DALE E. KILDEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. KILDEE. Thank you, Mr. Chairman. And thank you for scheduling this hearing today in the Osage Reservation. I'd like to acknowledge Chief Jim Gray from Washington and the Osage Tribal Council Members, Wilson Pipestem, whom I've known for many years, and particularly Mr. Mark Freeman, who I met in Washington D.C., and his grandson, Aaron.

Aaron, when I met you—I've known several generations here now. But when I met you, it put me in mind of my own son who returned from Baghdad last night. So, thanks for reminding me of him.

This is a very important issue. I support H.R. 2912 as a bill that would reaffirm the very inherent right of the Osage Tribe to determine its own citizenship. I tend to use the word citizenship rather than membership. I try to remind people in Congress that—I had to remind a candidate for Governor one time that sovereign tribes are not social clubs. They are sovereign tribes.

Article 1, Section 8 of the Constitution, which I carry with me all the time, defines—it doesn't grant you your sovereignty. It recognizes your sovereignty. So, I generally refer to the term citizenship rather than membership.

Particularly when I talk to young Native Americans when they come to Washington, I remind them that I have two citizenships. I'm a citizen of the United States, and I'm a citizen of the state of Michigan, but they have three citizenships. They're citizens of the United States, and they have proven it over and over again. Proportionately, more Native Americans have served in our armed forces and other groups. They're a citizen of whatever state they may be, and they're a citizen of their respective tribes. And they have rights and responsibilities that flow from those three citizenships.

The 1906 Federal Osage Allotment Act and subsequent amendments and Federal regulations provide, among other things, that only persons with a headright share of subsurface mineral estates may vote in tribal elections.

You can't just be somewhat sovereign. Sovereignty is sovereignty. Sovereignty means that you can determine your citizenship. It's inherent, sovereignty. And sovereignty also gives you the right to form your own type of government, not be told how many chiefs or sub-chiefs, but form your own type of government. And this was—you're treated differently than the other over five hundred tribes in this country. And what we, I think, have an obligation to do is, when we see an injustice—that's why I'm very grateful to Mr. Pombo for having this hearing. When we see an injustice, then we try to remedy that injustice. Mr. Lucas' bill, which is well written and well drafted, will remedy that injustice, and lets you exercise the full sovereignty that you had before the Europeans, my ancestors, settled here.

The sovereignty we know is affirmed by the U.S. Supreme Court in John Marshall's Decision. It's a retained sovereignty. It wasn't something given to you. You retained it. It's a very, very important claim that all you're asking is that we recognize all that flows from your retained sovereignty. We're giving you nothing. We're recognizing that sovereignty. We're recognizing all the rights that flow with that sovereignty.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Lucas.

STATEMENT OF THE HON. FRANK D. LUCAS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OKLAHOMA

Mr. LUCAS. Thank you, Mr. Chairman.

Mr. Chairman, Ranking Member, and fellow members of Congress, I appreciate you bringing the Resources Committee to Oklahoma to the Third District of Oklahoma to Osage County to be among the Osage people for this very important hearing. And I look forward to listening to your statements and the testimony from members of the Osage Tribe, as well as others involved with Indian affairs.

The language and culture of the Osage Tribe have a long lasting effect in and around Oklahoma. Contributions they have made and their strong unified presence led to the Osage Tribe becoming federally recognized. However, because, as we've discussed, of a law created in 1906, the Osage Tribe was not afforded the same rights as every other federally recognized tribe. And according to that law, membership will be extended only to those who own a share of the Osage mineral estate and their descendants.

Today, there are literally thousands of Osages denied the benefits of membership to the Tribe simply because they do not hold a share of the estate.

Currently, all federally recognized tribes throughout Oklahoma and the United States determine for themselves the criteria for membership and their system of government. The only exception is the Osage Tribe.

This disparate Federal policy has adversely affected many individuals, including young Osages who have been prohibited from taking advantage of Indian programs. I believe we owe it to them to work toward a solution to this problem, so that they will have the same opportunities as members of every other federally recognized tribe.

The bill I introduced, H.R. 2912, to reaffirm the inherit sovereign rights of the Osage Tribe to determine its membership and form of government, was designated to—was designed to clarify the ninety-eight year old law. It's intended to put the Osage Tribe on equal footing with all the other federally recognized tribes by allowing them to determine their own membership criteria and system of government while protecting the headrights of the shareholders.

And, Mr. Chairman, in addition to today's testimonies, I know that you and the Committee will continue to receive comments from those directly affected by the bill in the coming days. And I would like to take this opportunity to remind everyone of the importance of making that input available. And I know the constraints of the Committee today simply do not allow everyone probably to offer all the comments they'd like to. So, I'd like to encourage my constituents, our friends out here, to send their comments to either my office in Washington D.C. or to the Resources Committee if they have additional points or opinions. And I can assure you your words carry weight and will be helpful to the members of Congress as we work to craft the most beneficial legislation possible for the Osage people.

Once again, Mr. Chairman, thank you. And thank you to the House Resources Committee for this hearing today.

The CHAIRMAN. Well, thank you. As to your last comment, I will tell everybody that is here that we will hold the official Congressional record open for 10 days to allow people to submit additional comments. We were not able to accommodate everybody who

wanted the opportunity to testify. And I have already received one written statement from a Ms. Rosemary Wood, and I asked that that be submitted to the record at the appropriate point by unanimous consent. And I know there are additional people here who desire that additional information be included in the official record. All you have to do is print it out, and submit it to the Resources Committee. And Congressman Lucas' office can forward anything that you submit to the Resources Committee, and it will be included in the record as part of the official hearing.

[The prepared statement of Mr. Lucas follows:]

Statement of The Honorable Frank D. Lucas, a Representative in Congress from the State of Oklahoma

Mr. Chairman and fellow Members of Congress, I appreciate you making the trip to Oklahoma today for this important hearing. I look forward to listening to your statements and to the testimonies from members of the Osage Tribe, as well as others involved with Indian Affairs.

The language and culture of the Osage Tribe has had a lasting effect in and around Oklahoma. The contributions they have made and their strong, unified presence led to the Osage Tribe becoming federally recognized. However, because of a law created in 1906, the Osage Tribe was not afforded the same rights as every other federally recognized tribe. According to that law, membership would be extended only to those that owned a share in the Osage mineral estate and their descendants. Today, there are thousands of Osage Indians denied the benefits of membership to the tribe simply because they do not hold a share of the estate.

Currently, all federally recognized tribes throughout Oklahoma and the United States determine for themselves criteria for membership and their system of government. The only exception is the Osage Tribe. This disparate federal policy has adversely affected many individuals, including young Osages, who are prohibited from taking advantage of Indian programs. I believe we owe it to them to work towards a solution to this problem so that they will have the same opportunities as the members of every other federally recognized tribe.

The bill I have introduced, H.R. 2912, to reaffirm the inherent sovereign rights of the Osage Tribe to determine its membership and form of government, was designed to clarify the 98-year-old law. It is intended to put the Osage Tribe on equal footing with all other federally recognized tribes by allowing them to determine their own membership criteria and system of government while protecting the headrights of the shareholders.

Mr. Chairman, in addition to today's testimonies, we will continue to receive comments from those directly affected by the bill in the days to come. As much as we would like to give everyone a chance to testify, time constraints simply do not allow it. However, I would like to take this opportunity to encourage those who would like to share their views on this important bill to send their comments either to my office in Washington or to the Resources Committee. I can assure you that your words will carry weight and will be helpful to Members of Congress as we work to craft the most beneficial legislation for the Osage people. Thank you.

[The statement submitted for the record by Ms. Wood follows:]

**Statement submitted for the record by Rosemary Wood,
Osage Nation Membership**

My name is Rosemary Wood. I am an Osage Indian of 1/2 Indian blood and owner of over one share in the Osage Mineral Estate. I live on original allotment land in the Osage and I served on the Osage Tribal Council for two consecutive terms from 1994 through 2002.

I thank you for taking your time to be here today and for this opportunity to provide input concerning the bill which is now before you.

I do support this bill. I believe all sovereign nations have the right to determine their own system of government. More over, I believe all people have the right to determine how and by whom they shall or shall not be governed. This has not been the case for the Osage people since 1906,

Property rights have been and are currently the defining criteria for membership, or citizenship, in the Osage Nation. Osage people who do not own a share in the Mineral Estate are not qualified to hold membership, to vote or to hold office.

The United States of America has built a Federal Government which serves as a model for other nations. A government based on individual rights and equality under the law. America so believes in representative government that America has withdrawn trade relations with those who insist on policies of economic or political discrimination, such as the apartheid system of South Africa. Yet, within the very boundaries of the United States itself there exists a tribal government more closely resembling apartheid than democracy.

Four Councils have passed resolutions defining membership as all lineal descendants of the original allottees. The BIA has turned a deaf ear to tribal laws defining membership and has insisted on a narrow interpretation of the Osage Indian Allotment Act of 1906 reserving membership to those with mineral estate shares.

It is with pride and gratitude that I encourage representative of the United States Government and those of the Osage Nation's Government to continue their efforts to rectify this injustice and give all Osage equality under the law.

[A letter submitted for the record by Mrs. Howard M. West, Jr., Pawhuska, Oklahoma, follows:]

0412 E. 15^h Street
Pawhuska, OK 74056
March 19, 2004

Honorable Richard Pombo
Chairman, Resources Committee
1324 Longworth House Office Building
Washington, DC 20515

RE: H.R. 2912

Dear Representative Pombo:

Words cannot convey the gratitude I have for you convening the field hearing on H.R. 2912 here in Oklahoma and to the members and staff of the Resources Committee and Representative Lucas who took the time and trouble to give our Osage people the opportunity to express our reasons for needing a change in our Osage Nation's government. I am requesting that you place this letter in the official record for the hearing as my testimony on H.R. 2912..

I have been a shareholder since age 18 (I am now 78) when my dear father, a full-blood Osage and original allottee, passed away; and I have never thought it was right to have to lose a loved one in order to be able to participate in one's tribal government.

And yes, as far as I know, Osages have the unique distinction of being the only Indian Nation in the United States to require property ownership (in the mineral trust) to be considered a citizen with voting rights. Was not the Twenty-fourth Amendment (Section 1) of the U.S. Constitution enacted for the express purpose of abolishing that requirement?

At the time of allotment (1906), there was a language and cultural barrier that no longer exists. Consequently, we are fully able to express our wishes and to understand more completely the changes we seek. in our government¹.

No doubt, at the time, the federal government established the Code of Federal Regulations, or its predecessor, for their Osage wards' protection; but alas, at the same time it hamstrung our Osage Nation's ability and initiative to handle our own affairs-as we had been doing from time immemorial. For the past 10 years we Osages have been paying the price for the federal government's well-meaning but inept intentions. But who could foresee the future? Despite technology, humanity still has unresolved problems.

How many laws have been enacted, expanded, or even changed since the founding of this country? Especially in the past century? So it stands to reason that the rules by which our Osage Nation is governed should change too.

¹I know of two brothers who were bequeathed land instead of headright interests because their father wanted to make sure his third set of young children would be provided for until they were grown-the older sons were already grown, but they never were able to vote or hold office.

And, incidentally, I was so pleased that Representative Kildee made the distinction between "citizenship" and "membership" when alluding to the issues addressed by H.R. 2912.

And as far as some of our non-shareholders taking so long to approach Congress about the inequity of our government participation, it has been tried before. There was the Logan vs. Andrus case in federal court, but the court ruled that it was not the proper "aggrieved parties" who sued.

Then in the early 1970's, three young, non-shareholding Osage men² approached then Senator Henry Bellmon, of Oklahoma, who said he would introduce such a bill if they would bring him three hundred signatures on a petition. They did and he did. But the bill failed because too many of the Osage share-holders were afraid the non-shareholders, who numbered in the majority of the tribe, would want to redistribute the mineral estate, despite the assurances it would not be done.

Then again in 1986, our people were faced with three crises: (1) the status of the government after the demise of the last original allottee; (2) erosion of our land base by sale and enforcement of eminent domain; and (3), dissatisfaction by some of us with how our business was being handled, or not being handled. Except for oil companies, business and industry did not want to deal with a nation (or tribe) divided. Our economic development has been stymied all these years.

So some of the descendants of the Osage 1881 Constitution signatories, by which we were governed after our removal here from Kansas, approached our then Osage Tribal Council to explore the possibility of reaching an accommodation that would include and be of benefit to all of Nation. Unfortunately, the Osage Tribal Council lacked the vision to see beyond the mineral estate and the dilution of their power-which your panel so astutely observed as being the case with most political situations.

So the descendants appealed to our congressmen and the Bureau of Indian Affairs to help us resolve this dilemma. Both entities appeared to be reluctant-or frightened-to use their legislative authority to rectify this abominable travesty.

With nothing to lose, the descendants of the signatories of the 1881 Constitution met in convention according to the rules of the 1881 Constitution to reactivate, restore, and amend that document.

It was only as a last resort that we sued the United States, the Secretary of the Interior (who represents the BIA); and our Osage "Tribal" Council (who represents only shareholders). This was the beginning of Fletcher et al vs. United States et al.³

Finally, in 1994 (after much time, effort and expense) our National Council prevailed and there was an election for every Osage citizen over 18 years of age. The "Tribal" Council was relegated to simply "overseeing" the mineral estate, i.e. approving leases.

Astonishingly, the Chief of the Osage Tribal Council whom we had originally approached (but who denied us an audience) was elected President of the National Government. His successor, and the Osage Tribal Council, appealed the federal district court's decision (after we had an election), so we all went to the Tenth Circuit Court of Appeals in Denver. Despite a valiant effort on our Plaintiffs' part and that of our attorney, the Tenth Circuit Court referred us back to Congress. How many times must we get the run-around?

At last we have a chief and council who listen to the people. That is why we are so heartened by your Committee's holding a field hearing instead of having it in Washington. Which only a few of us were able to do in the past- more than once.

I represent no one's opinion but my own, but from the bottom of my heart, I thank you for this hearing.

Sincerely,

Mrs. Howard M. West, Jr.

cc: Hon. Dale Kildee
 Hon. Brad Carson
 Hon. Tom Cole
 Hon. Frank Lucas

² Andrew Gray, Jr., oldest brother of our present Chief, James Gray; Howard West III, my son; and Charles Pratt, Jr., first Principal Chief of the unrecognized Osage National Government.

³ Two Osage shareholders, William S. Fletcher and Juanita W. West; and two Osage nonshareholders, Ida B. Woody (who was age 80 at the time) and Charles Pratt, Jr., one of the young men mentioned above and who only recently did he become a shareholder upon the death of his mother. These 4 represented some 200 Osage citizens who registered at our initial convention and desired a change in our Osage government.

[NOTE: Information submitted for the record by Terry D. Kennedy, Wynona, Oklahoma, has been retained in the Committee's official files.]

The CHAIRMAN. I would like to call up our first witness, Ms. Jeanette Hanna, the Bureau of Indian Affairs Regional Director for Eastern Oklahoma.

I'd like to take this time to remind all of today's witnesses that under our Committee rules oral statements are limited to 5 minutes. Your entire statement will appear in the record as submitted.

The Committee regularly swears in witnesses at hearings.

And if I could ask you to stand and raise your right hand.

Do you solemnly swear or affirm under the penalty of perjury that the responses given and the statements made will be the whole truth and nothing but the truth?

The record shows she answered in the affirmative.

Thank you very much for being here with you us today.

And when you're ready, you can begin.

STATEMENT OF JEANETTE HANNA, DIRECTOR, EASTERN OKLAHOMA REGION, BUREAU OF INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Ms. HANNA. Thank you, Mr. Chairman.

Good morning, Mr. Chairman and members of the Committee. My name is Jeanette Hanna. I'm the Regional Director for the Eastern Oklahoma Region of the Bureau of Indian Affairs. I am pleased to be here on the Department's behalf to discuss their position on H.R. 2912.

The Department supports a legislative solution to correct this longstanding issue to the Osage Tribe. This legislation will resolve a long history of uncertainty among the Indian people who can trace their family heritage to the Osage Tribe, yet due to the governing statute enacted in 1906, only tribal individuals with an ownership interest in the mineral estate can be officially recognized as member of the Tribe.

H.R. 2912, if enacted, will allow the recognized Osage Tribal Government to be the official representative of all Osage people. The bill will allow all Osage tribal members to participate in tribal matters including the selection of their leadership.

The Department has met with Principal Chief and other elected officials of the Osage Tribe who advised us of their intent to seek a legislative remedy regarding this membership. One concern the Department has is the Federal Government has held that the tribal government must adhere to the 1906 Act provisions. The judiciary recognized that the legislative branch is an entity that had to make any change in form mandated by the 1906 Act.

If H.R. 2912 is enacted, we, the Department, will be happy to work with the Osage Tribe at its request to assist in conducting an election to implement the provisions of the bill. We also recommend that there should be an express provision in the bill that prohibits any form of government that diminishes the property interests of the headright holders.

That concludes my statement. I'll be happy to answer any questions.

[The prepared statement of Ms. Hanna follows:]

**Statement of Jeanette Hanna, Director, Eastern Oklahoma Region,
Bureau of Indian Affairs, U.S. Department of the Interior**

Good morning, Mr. Chairman and Members of the Committee. My name is Jeanette Hanna, and I am the Director for the Bureau of Indian Affairs (BIA) Eastern Oklahoma Region. I am pleased to appear before the Committee today to present the Department's position on H.R. 2912, "a bill to affirm the sovereign rights of the Osage Tribe to determine its membership and form of government."

The Department supports a legislative solution to correct this longstanding issue for the Osage Tribe. This legislation will resolve a long history of uncertainty among Indian people who can trace their family history to the Osage Tribe, yet, due to the governing statute enacted in 1906 by the Congress, only tribal individuals with an ownership interest in the mineral estate can be officially recognized as members of the Osage Tribe with full membership rights.

H.R. 2912, if enacted, will allow the recognized Osage tribal government to be the official representative of all Osage Indian people. The bill will allow all Osage tribal members to participate in tribal matters, including the selection of their leadership.

The Department has met with Principal Chief Jim Roan Gray and other elected representatives of the Osage Tribe, who advised us of their intent to seek a legislative remedy regarding their membership. One concern the Department has is, the U.S. Court of Appeals, 10th Circuit, in 1997 found: "[i]n summary, Congress terminated the power of the Osage Tribe to create a form of tribal government inconsistent with the prescription of the 1906 Act." (Fletcher v. United States, 116 F.3d 1315, 1329). The judiciary recognized that the legislative branch had to make any correction in the form mandated by the 1906 Act.

If H.R. 2912 is enacted, we will be happy to work with the Osage Tribe, at its request, to assist in conducting an election to implement the present subsection (b)(2) reaffirming the inherent sovereign right of the Osage Tribe to determine its own form of government. We also recommend that there should be an express provision in subsection (b) (1) that prohibits any form of government that diminishes the property interests of the headright holders.

That concludes my statement. I will be happy to answer any questions that you may have.

The CHAIRMAN. Can you—if you could, if you could give us an idea of why this has been in place for so long. It appears that since Mr. Lucas brought this legislation to the Committee, that there's very widespread support for moving forward with this legislation. Can you give me an idea of why this has been in place for so long without there being Congressional action on this.

Ms. HANNA. Honestly, Congressman, I have no idea.

The CHAIRMAN. Is there—as far as you know, is there any reason to maintain the current status that was outlined in the 1906 Act.

Ms. HANNA. In today's world, no, sir. I don't believe there's any reason to maintain the status.

The CHAIRMAN. Are you aware of any widespread opposition to opening this up and giving the Tribe the right or returning to the Tribe the right to determine what its citizenship is.

Ms. HANNA. No, sir. I'm not aware of any widespread opposition.

The CHAIRMAN. Well, thank you very much.

Mr. KILDEE. Thank you.

I'd ask you this question. Would this legislation, in your experience and in your background, grant any special rights that other tribes do not have.

Ms. HANNA. No, sir. I don't believe so. I believe it would put them on an even platform with the other tribes.

Mr. KILDEE. They would be—they would have what the other five hundred plus tribes have.

Ms. HANNA. Five hundred and sixty-one tribes that decide their own membership.

Mr. KILDEE. I keep track—I've helped several tribes get their sovereignty reaffirmed. So, I understand exactly what distinguished tribes that the BIA—fifty sixty-one now. So, they would have equal rights.

Ms. HANNA. Yes, sir.

Mr. KILDEE. And equal rights is a very important concept both among sovereign Indian Nations and the United States and the State of Oklahoma, right.

Ms. HANNA. Right.

Mr. KILDEE. Thank you very much.

The CHAIRMAN.

The CHAIRMAN. Mr. Cole.

Mr. COLE. Thank you very much, Mr. Chairman.

Just a couple of questions, because most of them have already been answered. But just to be very specific on this, are you aware of any other tribes that would have any objection to this legislation at all.

Ms. HANNA. No, sir. I don't think any other tribe would have any objection recognizing the sovereignty.

Mr. COLE. So, it's a situation quite unique to the Osage that would not intend to—

Ms. HANNA. This is very unique to the Osage.

Mr. COLE. Is there any other—do you happen to know, just out of curiosity, why this was written this way in the first place.

Ms. HANNA. I believe in one of the opening comments that at the time of our history in the early 1900's, they thought the Tribe probably would be assimilated into the main stream society as they knew it then. And I think it's just a sign of the times back then.

Mr. COLE. Do you think legislation, as it was written, was originally designed to speed that simulation, or just simply indifferent to the possibilities.

Ms. HANNA. I think probably a lot of personal opinions on that could be argued. But I think it's just a pure sign of the times and the history of our nation.

Mr. COLE. Well, I want to thank you for appearing here, and appreciate your support of the legislation and the Department's support of legislation. Thank you very much.

Back to you, Mr. Chairman.

The CHAIRMAN. Mr. Carson.

Mr. CARSON. Good to see you here, Ms. Hanna.

A couple of questions for you. If the legislation passes, what will be the role of your office or the BIA in Washington in helping the Osage Tribe establish membership criteria, and will those require any approval from your office or from the Washington office.

Ms. HANNA. I think the role of the Bureau of Indian Affairs and its Department will provide any of the technical assistance that they may request of the Bureau of Indian Affairs. I think the tribal legislation is intent to let the Tribe determine its own internal workings as it will request of the government, then we will step in.

As far as clearances, it would depend on the content of the legislation itself. It would require one final sign off like we have in Tribal Constitutions. The Tribal Constitutions, if there's any change, there is a recommendation from my level, at the regional director's level, and then final approval by the assistant secretary.

Mr. CARSON. Now, you said it depends on the contents of legislation. You mean the underlying bill we're talking about today.

Ms. HANNA. Right. If it changes—if the bill, as written, says, you know, that this—you know, we leave it up to the Osage Tribe. Then, we will just sort of work in a third person capacity, at their request, if they need any assistance.

Mr. CARSON. And, obviously, in your role as the Regional Director for kind of the heart of Indian country in this state and in the nation, you oversee as kind of the representative of the Federal Government, which has a fiduciary responsibility to tribes, a number of the Federal programs that individual Tribal members can avail themselves of. Do you have a sense, because of the kind of unusual history of Osage Nation membership, what benefits or entitlements from the Federal Government that Osage members, or, say, someone whose parents are both members of the Osage Nation but themselves do not have a headright, would not have that perhaps—let me rephrase that, because I didn't state that very artfully.

You have a strange situation for Osage country that someone could have both parents who are full blood Osage, but they themselves do not have a voice in Tribal Government and would not necessarily be recognized as a member of the Tribe until which time as they inherited the headright from their parents. Is that not correct.

Ms. HANNA. Uh-huh.

Mr. CARSON. And because of that, are there certain rights or benefits that across the Nation every other tribal member would have, access to Indian health service, for example, a wide variety of Federal benefits, that that person that I put forth said who's not given theirs and would not be eligible for despite the fact that he himself is a full blood Osage.

Ms. HANNA. I could think of two immediate instances.

One is—it's determined in the Indian preference, only that you need—you have to have a certificate of Indian blood. It's what we use for verification on that.

Right now, there's a special proviso for the Osage to have a—to be recognized with Indian preference. That proviso would go away with this bill in that members of the Osage would be treated like any other member of a federally recognized tribe in claiming Indian preference. There would not be any exception.

The other instance is for programs, our eligibility for first criteria of eligibility is Indian of a federally recognized tribe. So, it would just be—you know, you wouldn't have to prove a blood level or a headright for that.

Mr. CARSON. And how frequently—you said there's a proviso of the various laws of Indian preference to deal with the unusual situation of the Osage; is that correct.

Ms. HANNA. Yes.

Mr. CARSON. How common are those kind of provisos throughout Indian law which would have some kind of special rule because of a set administrative circumstances to qualify as a formally recognized member of the Osage Nation.

Ms. HANNA. When I first did a quick scan of our twenty-five seat of—our governments governing the Bureau's operations, the Osage

alone was numbering, like what, eleven to fifteen specific provisos specific to the Osage.

Mr. CARSON. And all of those, you would estimate, would go away with this legislation were it to pass.

Ms. HANNA. Or simplify them. They wouldn't all go away.

Mr. CARSON. Well, thank you for being here today.

The CHAIRMAN. Mr. Lucas.

Mr. LUCAS. It's a pleasure, Mr. Chairman.

Director, one simple question. We operate in a very challenging budget time line in the Nation's Capitol these days. With the implementation of this legislation, would you need any additional funds at your bureau to implement this language.

Ms. HANNA. At this point, I—I hate to say no, but I would say very minimal. I see a minimal impact on the increase there.

Mr. LUCAS. Very minimal. I like that number.

Thank you, Director.

The CHAIRMAN. Well, thank you very much. If there are additional questions that the panel has, they will be submitted to you in writing. If you can answer those in writing to be included in the record. I think you pretty much answered everything that any member had. As we listen to the rest of the testimony, if there are other questions, we will submit those to you in writing. And if you can have those answered for us, we can include them in the record, and I would appreciate it.

Ms. HANNA. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

I'd like to call up our second panel consisting of Principal Chief Jim Gray and Councilman Mark Freeman. If you could join us at the witness table.

Before you sit down, I'd like to have both of you raise their right hand.

Do you solemnly swear or affirm under the penalty of perjury that the responses given and the statements made will be the whole truth and nothing but the truth?

Chief GRAY. I do.

Mr. FREEMAN. I do.

The CHAIRMAN. Thank you very much.

Can you join us at the table.

Let the record show they both answered in the affirmative.

Well, thank you very much for being here. The Committee is honored to have you here to participate in this hearing and to give us your statements and questions.

Chief, if you're ready, you can begin.

**STATEMENT OF CHIEF JIM GRAY, PRINCIPAL CHIEF,
OSAGE TRIBE**

Chief GRAY. Thank you, Chairman Pombo.

On behalf of the Osage Nation, I would like to welcome you, Chairman Pombo, Congressman Lucas, Congressman Kildee, Congressman Cole, Congressman Carson to the Osage Reservation. I am pleased that the Resources Committee has come to hear Osage voices about this important legislation. We are honored by your presence.

House Resolution 2912 would reaffirm the Osage Nation's inherent sovereign rights to establish its own form of government and membership criteria without diminishing the Osage mineral estate. I testify today in strong support of this legislation.

Many years ago our Osage people lived on a reservation in Kansas. The leadership of the Tribe at that time sent a man named Wa-ti-an-ka to this area to look at this land, and advised the Tribe whether this was a suitable place for our children and elders. When he returned, he said the Osages should move to this place, our current reservation, because he believed that there was something in this land that would take care of the Osage people in the future. Our children would never starve, and our elders could live without fear.

Many of us through the years believe Wa-ti-an-ka was referring to the oil that was discovered in the Osage years later. Income from oil has provided our people with a degree of comfort over the years. But in 2004, we understand that Wa-ti-an-ka may have been talking about more than the oil. He may have been referring to that which will sustain the Osages into this century, the sovereignty of the Osage Tribe.

The legislation this Committee is considering today would move the Osage Tribe forward in a historic way toward this sustenance. It would allow the Osage people to define who we are and who we will be.

Today the question of who the Osage Indians are, at least as a legal matter, is murky and fraught with uncertainty. In 1906, Congress said that only those who the Secretary of Interior determines are Osage will be Osage for purposes of receiving land allotments and a headright, the right to receive a pro rata distribution of income from the mineral estate. Yet the Federal Courts and the BIA have interpreted the Secretary's identification of Osages as Osage membership for all purposes. Even further, Osage membership for purposes of voting and eligibility for elected tribal office is limited to Osages with headrights. These interpretations effectively disenfranchise thousands of Osages. The Osage Tribe is concerned about the political rights of Osages who cannot participate in Osage government in any formal way. This is wrong. And despite the efforts of the Osage Tribal Council to remedy this problem through its own power on at least four occasions since 1980, today the problem continues. The good news is that the courts and the B.I.A. Have made clear that Congress holds the authority to clarify the powers of the Tribe, so we know where the remedy lies. We know that we are in the right forum today. And we know that the time has come for the Osage Tribe to take its rightful place.

With regard to our form of government, Congress dictated to the Osage people in 1906 that we would have a Principal Chief, an Assistant Chief, and eight Council members. Today, we continue to follow this mandate, but there is one serious problem with this government form. It is not Osage. It is not of our making. It does not reflect Osage values. It is an imposition.

We have adapted, over the years, to make this government work for the Osage as best we could. Where Congress has not expressly abrogated our powers, we have exercised our sovereignty and been able to do good things for our people. But today, we have an unjust

government. It unfairly excludes Osages who do not happen to have a headright.

With the ingenuity of our people, we will have a strong government that works for the people, not against them. This legislation would clarify that the form of government in 1906 is not mandatory, and that Osage tribal government can adapt to changing times for the good of all its people.

Today, the Osage people are looking to Congress to pass a new law, one that respects the true essence of any nation, the right to self determination. This is the policy of the United States toward Indian tribes having disclaimed the disastrous policies of allotment and assimilation that led to the problem we seek to solve today. We believe tribal self determination and Federal support of strong tribal government is exactly the right policy today, and it is the policy that guides this legislation.

As Principal Chief of the Osage Nation, the Chief of a Council made up of and elected by only headright holders, I ask you to allow the Osage Tribe and its people the freedom to define our own citizenship, our own form of government, and our own future.

Thank you for this opportunity. I'd be pleased to answer any questions that the Committee may have.

[The prepared statement of Chief Gray follows:]

Statement of Jim Gray, Principal Chief, Osage Tribe

On behalf of the Osage Nation, I would like to welcome you, Chairman Pombo, Congressman Lucas, and the members of the House Resources Committee to the Osage Reservation. I am pleased that the Resources Committee has come to our home to hear Osage voices about this important legislation. We are honored by your presence.

House Resolution 2912 would reaffirm the Osage Nation's inherent sovereign rights to establish its own form of government and membership criteria without diminishing the Osage mineral estate. I testify today in strong support of this legislation.

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made clear that Congress holds the authority to clarify the powers of the Tribe, so we know where our remedy lies. We know that we are in the right forum today. And we know that the time has come for the Osage Tribe to take its rightful place.

With regard to our form of government, Congress dictated to the Osage people in 1906 the we would have a Principal Chief, an Assistant Principal Chief, and eight Council members. Today we continue to follow this mandate. But there is one serious problem with this government form: It is not Osage. It is not of our making. It does not reflect Osage values. It is an imposition.

We have adapted over the years to make this government work for the Osage as best we could. Where Congress has not expressly abrogated our powers, we have exercised our sovereignty and been able to good things for our people. But today, we have an unjust government. It unfairly excludes Osages who do not happen to have a headright.

With the ingenuity of our people, we will have a strong government that works for the people, not against them. This legislation would clarify that the form of government in the 1906 is not mandatory, and that Osage Tribal government can adapt to changing times for the good of all its people.

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As Principal Chief of the Osage Nation, the Chief of a Council made up of, and elected by, only headright holders, I ask you to allow the Osage Tribe and its people the freedom to define our own citizenship, our own form of government, and our own future.

Thank you for this opportunity. I would be pleased to answer any questions you may have.

The CHAIRMAN. Thank you.
Mr. Freeman.

**STATEMENT OF MARK FREEMAN, COUNCILMAN,
OSAGE TRIBE**

Mr. FREEMAN. Gentlemen, I first want to thank you once more publicly for bringing this hearing here to us and for the hard labor that you've done coming this far with this bill.

I would like to depart one moment and introduce my wife, Eleanor, if she'll stand back here. She'll probably be mad at me. I want to point out she's the grandmother of twenty-five Osage grandchildren who, under the present scheme of things, of course, are not acknowledged members of the Tribe, and also, twelve—at this late count, twelve great-grandchildren. So, if that points out possibly to you something. But thank you for allowing me to do this.

Members of the House Resources Committee, I am Mark Freeman, Councilman of the Osage Tribe, elected only by shareholders in the Osage mineral estate. I am Chairman of the Membership Committee of the Council. I am also eighty-three years old, which qualifies me as an elder of the Tribe. I am humbled by the invitation to testify here today, and I do so in strong support of this legislation.

I graduated from Ponca City High School in 1938, Northern Oklahoma Junior College in 1940, and I also attended Oklahoma University from '40 to '41. I enlisted as a U.S. Naval Cadet in 1942, commissioned a 2nd Lieutenant in the U.S. Marine Corps Reserves, Navigator in 1943, and served overseas in the South Pacific Solomon Islands Campaign. In 1943, '44, I was Navigator Aid to

General Moore, Executive Officer, Second Marine Air Wing, Bougainville. I resumed Pilot Training in 1944 and received Pilot Wings August 1945. I was released to inactive duty as a First Lieutenant, United States Marine Corp Reserves in February 1946.

I started ranching in Osage and Noble Counties in '46. And in 1967, I established a ranch north of Pawhuska on the Osage Reservation. I continue to operate that ranch today.

In 1967, I was elected as a member of the Federal Land Bank Board and served in that capacity until I retired in 1991. In that twenty-four year period, I served on various committees of the Twelfth Farm Credit District, Oklahoma, Kansas, Colorado, and New Mexico. During all of those years, I was an Osage by blood, but was not recognized by the Bureau of Indian Affairs or the Federal Government as a member of the Osage Tribe.

My mother, who was an original allottee of the Tribe, died in 1992 at the age of ninety-one. I inherited her headright. That made me eligible, at the age of seventy-three, for the very first time to vote in the Osage Council election in 1994. I know of many others, because of strange historical twists in the wills and probates of Osage estates, and that's another long story for another day. We could go on with this. But who are Osage, but may never have the right to participate in Osage government. This is unfair and simply should not be.

There are a fixed number of Osage headrights, twenty-two hundred and twenty-nine, the same number of individuals on the 1908 roll established by the secretary. Now, non-Osages own approximately twenty-five percent of those headrights. Including in some of those are bankrupt oil companies, non-Indians, other individuals, other governments. And being born to an Osage family does not mean an individual will ever become a headright owner. A headright is a federally protected property right, as it should be, that an Osage individual can bequeath to a favored son or daughter or to another Osage person. And unfortunately, tribal rights and Federal protections afforded only to Indians are tied to headright interests because of the outdated membership rules.

I have lived many years, through years of service in the military and living and working here in Osage country. And I've come to understand the structural inequities of the Osage government that are beyond our people fixing ourselves. A problem created by Congress well before I was born, Federal law excludes most Osages from participating in the government closest to them, Osage tribal government. I'm not burdened with a law degree, but this defies common sense. What I am burdened with is my conscience and good teachings that direct me to act on behalf of my children and grandchildren who, despite their pride in being Osage, cannot participate in Osage government. I am here, as well as in my financial capacity, as their emissaries and the emissary of all other young Osage seeking justice for them and their grandchildren to be.

Mr. Chairman, Congressman Lucas, all of the other good members of Congress who have come to this place to hear from the Osage about this legislation, this bill does not cost the Federal Government any money. We're not asking for land. We're not talking about gaming or some other area of concern. The Osages are asking for basic human and civil rights, rights that all other tribes have.

I ask that you take what you have heard today back to Washington D.C., and pass this bill as expeditiously as possible. The Osage Nation's future depends upon your actions.

Thank you for this opportunity. I would be pleased to answer any questions you may have.

[The prepared statement of Mr. Freeman follows:]

Statement of Mark Freeman, Councilman, Osage Tribe

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My mother who was an original allottee of the Tribe died in 1992, at the age of 91. I inherited her headright. That made me eligible at the age of 73—for the very first time—to vote in the Osage Council election of 1994. I know of others because of strange, historical twists in the wills and probates of Osage estates (another long story for another day) who are Osage but may never have the right to participate in Osage government. This is unfair and simply should not be.

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Thank you for this opportunity. I would be pleased to answer any questions you may have.

The CHAIRMAN. Thank you, Councilman.

Chief, if I could, in your testimony, you talked about previous attempts to solve or resolve this situation. Can you expand on that a little bit for the Committee.

Chief GRAY. In the past twenty-five years, there has been several attempts to try to remedy this problem through CFR changes, as well as through the Federal Courts. And in the most recent case, in an appellate decision in 1998, known here as the Fletcher One, there was a determination that Federal Court was not the right avenue with which to resolve this problem and striking down the creation of the National Council for a lower Court decision. It basically, essentially said that Congress created this problem, and Congress needs to fix it.

The CHAIRMAN. Were there previous legislative attempts.

Chief GRAY. No, sir.

The CHAIRMAN. So, it was not until after that particular court decision that the decision was made that it had to be done with legislation.

Chief GRAY. That is the—that is the way the Council has come to this decision, that it was clearly based on our interpretation of Court decisions, as well as input from the community and the series of hearing the Tribe held a year and a half ago requiring this very issue. And it was quite clearly explained by both attorneys of the Osage Tribe, who volunteered their time to research this issue and provide input to the Tribal Council to formulate a better policy decision, and this was the result of that work.

The CHAIRMAN. It's somewhat puzzling to me that the Osage would be the only ones that this happened to. You know, it seems like if you go back and research, that as we go through different periods, there's, you know, one block that will be treated one way, and then twenty years later or thirty years later there's something somebody else that comes along with a different idea, and you end up with something different. It's somewhat confusing that we ended up with just the Osage in this, from what I can gather, is a unique situation. And I know I'm sure that at the time it might have made sense, or they may have had some justification for why they did it. But us looking back on it almost a hundred years later, it doesn't make a lot of sense to us, to the Committee, that we ended up with this.

Do you have any insight that has come out of the research that you've done of why the Osage were treated differently.

Chief GRAY. Well, I think you a—and I'm not trying to draw any chuckles from the audience here today. But you used the word unique. And it's a word that has been in our tribe for years. And it is both a blessing and a curse to be this unique sometimes. But I would say that there has been an enlightened view by not just how the Osages are treated, but also in terms of how Indian Tribes, in general, are treated, that the policy of self determination probably helps resolve this issue best in allowing the tribes to formulate internal government reforms that meet the needs of their community.

So, I would say that the reason it may have lingered, may have largely to do with the internal governments of the Tribe to come to that conclusion itself, and then seek remedy. That brings us back here.

So, my belief was that the policy of self determination is the policy of the Federal Government in its dealings with Native Tribes around the country. And this bill is consistent, as my testimony stated, is consistent with that philosophy that Osages are best suited to solve these problems internally. But it had to start with us first. We had to make that decision ourselves, and then come to you. And I think that's what was missing.

The CHAIRMAN. To satisfying my curiosity, both you and the Councilman talked about the election being only of headright owners. If someone is a—owns half, inherits half of a headright, do they get half of a vote.

Mr. FREEMAN. That's correct.

The CHAIRMAN. That—really.

Mr. FREEMAN. As it is today, if they got one sixty-fourth, they get one sixty-fourth of a vote.

The CHAIRMAN. Boy, election nights must be a lot of fun.

Mr. FREEMAN. But for those of us—I'll just add a little levity to this. And it was serious with me. As long as my mother lived, my wife had a little piece of headright. And I would take them to vote, and I couldn't go in there.

The CHAIRMAN. So, you weren't—

Mr. FREEMAN. I was not even allowed in where they voted.

The CHAIRMAN. Huh.

Mr. FREEMAN. Now, the first time that came to me was when I was 8 or 9 years old. One of my cousins lost some of their people, and they inherited these headrights. They laughed at me. Said, "I'm Osage. You're not. I'm Osage." A lot of our people have heard this.

Well, that bothered me until I was—well, it always did bother me, but it didn't keep bothering me as bad as it did that first time that fellow said that. But then when I was fourteen, fifteen years old, I realized the reason I did not have a headright nor a vote was because I had my momma.

The CHAIRMAN. So, the way the laws are established now for the way the system operates, you could have someone that's 2 years old that has a vote, and somebody that's seventy-three that doesn't.

Mr. FREEMAN. Well, that 2 year old cannot vote until they're eighteen.

The CHAIRMAN. Who votes their share?

Mr. FREEMAN. It's lost.

The CHAIRMAN. Really.

Mr. FREEMAN. That vote is lost. We have—for the second time, I'll bring an end to this, but I will give you a record of how many votes actually took place in the last election and the previous election, how many shares were. And I think you may have that someplace in your record. I don't know.

The CHAIRMAN. I know my time has expired, but just the indulgence of the Committee briefly.

Can you give us an idea of how many people actually voted? I know that the total vote is a limited number. But how many people actually had a piece of a vote or, you know, were able to vote? How many total votes were cast.

Mr. FREEMAN. There were approximately a little over three thousand votes that were cast. There are a little over four thousand individuals who own headrights or pieces thereof.

The CHAIRMAN. And how many—how many people if—and I'm not sure if you've set up an exact definition yet. But you can tell me how many people claim the Osage blood? How many people really should have the opportunity to participate?

Mr. FREEMAN. Well, there are almost sixteen thousand CDIB cards.

The CHAIRMAN. Sixteen thousand.

Mr. FREEMAN. CDIB cards. CDIB cards.

But that's not a membership of the Tribe. We found that out. That's a weakness with our young people when they go to school, when they go get a job. Not on a level playing field with all other tribes. They need a membership card.

Chief GRAY. It's just a degree of Indian blood to a particular tribe, and it's a Bureau of Indian Affairs issued document to people who have one.

Unfortunately, as I mentioned before, this policy of self determination, a lot of changes have taken place over the years where they don't recognize the CDIB card as something that would entitle you to any of the benefits that come with actually being a member of the Tribe or a citizen of the Tribe that would issue a tribal identification card that's issued by the Tribe, not the Federal Government. So, a lot of things that you will hear today from other testimony will kind of personalize the impact that this policy has had on our people.

The CHAIRMAN. Thank you.

Mr. KILDEE.

Mr. KILDEE. Thank you very much, Mr. Chairman.

You asked why this happened in 1906. It was a difficult period for Indians throughout the country, including Michigan. My dad was born in 1883. That's why I've learned about the injustice to the Indians. He always told me that the Indians were treated unjustly in Michigan.

When my dad was seventeen years old he lived at Burt Lake, Michigan, the Burt Lake Tribe, which were trying to get their sovereignty recognized, obtain sovereignty. They put them on the tax rolls for 1 year. And 1 day later came in, because they had not paid their taxes, pushed them off the land, and burned their village down. This is in my dad's time now. This is in Michigan. So, it was a very difficult time for Indians. They would disburse from the European point of view, and be assimilated or whatever occasion, but it was a very difficult time.

Let me ask you this. I think the question has been answered during your testimony. But just looking at a specific point in the record, does every person of Osage blood who has a parent with a headright receive one after the parent's death.

Mr. FREEMAN. No.

Chief GRAY. No. It depends on how many siblings they have that are of Osage descent.

Mr. FREEMAN. It's even worse than that. A parent, an Osage parent could have twelve children, and might just leave that headright

or the primary part of it to one favored son or one favored daughter. This doesn't always happen, but it can happen.

Mr. KILDEE. Let me ask you. Does your grandson, Aaron, does he have a headright now?

Mr. FREEMAN. No. He does not.

Mr. KILDEE. He's twenty-one years old, and cannot participate.

Mr. FREEMAN. I will—will you let me go further with that.

Mr. KILDEE. Sure.

Mr. FREEMAN. I have six children and three stepdaughters. Three stepdaughters have a half headright. From those six children, three stepdaughters have twenty-five grandchildren. None of them have it. Then they, in turn, have twelve other great grandchildren who hopefully are going to go on and be healthy, and none of them have it. But there are other families. There are—twenty-five percent of these headrights are in non-Osage hands, whether it be by murder, but illness, by going to a non-Osage spouse. This has happened in the past.

There are a multitude of young Osage people by blood who will never, in their lifetime, nor will their children in the present scope of things, nor will their children or their children's children have an Osage headright.

Mr. KILDEE. And Mr. Lucas' bill will remedy this.

Mr. FREEMAN. This is the purpose. This is the whole purpose. It has nothing to do, though, with property.

Mr. KILDEE. I think you've made your point very clear. And I certainly—I think, you know, in the archives of your Nation, there are many historical happening that hopefully some day in the archives that they will have on this date took place that a bipartisan Committee came out here. This is not a Democrat or Republican issue. A bipartisan Committee came out here. And I thank Mr. Pombo for doing this, to try to bring a remedy for this injustice. Wherever there is an injustice, we have to seek a remedy. And I think your testimony has been very, very helpful. I thank you.

The CHAIRMAN. Mr. Cole.

Mr. COLE. Thank you very much, Mr. Chairman.

Councilman Freeman, did you ever think your wife might like it that you couldn't vote, and she could? Mine would love that.

Mr. FREEMAN. I'm going to tell you something. My wife and mother both liked it.

Mr. COLE. You know, this is an extraordinary anomaly in the law. My family owns the last part of our allotment land as Chickasaws. And if we had to define our citizenship within our Nation on the basis of property as opposed to being able, in our case as you propose, to trace it back, we would lose thousands of people whose heritage is important to them who are contributing and active members. And it's amazing to find ourselves in this situation.

I want to compliment you, Chief Gray, on a couple of things. Number one, I will tell you it's an unusual politician who is willing to change his electorate. If you've been winning with one group—you know, and this is quite an extraordinary thing. You are expanding the number of people that can participate in the political life of the Osage Nation. And that always holds, quite frankly. You know, we all agonize over redistricting out here. Any time you change who votes for you, that's a big deal. And that speaks very

well of you, frankly, being willing to put the good of your people above your—what might be conceivably your own political self interest. So, I compliment you on that quite profoundly.

And I think, frankly—and as I'm sure the people here know, I appreciate the fact that you have come to Washington, as well as—we're here because you went there in large measure. And I had the opportunity when you and Winston, I think, were up there to—we went to visit Whit's office.

As people up here know, Whip Blunt, Whip Blunt from Missouri, as you walk down that hall—if you ever come to Washington, come by, and one of us will get you up there. Because the lines—first photographs as you come in toward the office of Osage people, Osage and Indian territory in the 1870's and 80's and 90's. And then when you walk into the Whip's office, which is quite grand, one of the great offices in the Capitol building, there's on original Catlin paintings of Osage all down the wall. And Whip likes to joke. There's also quite a collection from the Smithsonian of Osage war clubs and paraphernalia. He always threatens to break those out on us. And believe me, they look like they could do the job.

Of course, as I tell Whip Blunt, he's not nearly as fierce as the people who wield those things. I'm not too worried about him. But this is a quite extraordinary journey that you've undertaken for your people and a very, very good thing.

I do want to ask you. There are—obviously, you have—are the Osage a participating tribe in the fuel tax arrangements that we have at the state level in Oklahoma.

Chief GRAY. Yes. It was an Act of Congress that—called Gross Production Tax that provides a percentage of our oil revenues to the state of which revenue was returned back into the form of money for education and roads. And it's also—it is distributed in the general funds in the state and—which we might want to talk about some day, how that's calculated. If you drove up here, you know.

Mr. COLE. Now, I actually meant, as you recall, we negotiated—the State of Oklahoma negotiated with various tribes an actual sharing of fuel tax revenue during the course of the 1990's in exchange for which the tribes, various tribes, participated and charged state fuel tax at facilities that they operated. And they got back a relatively small percentage. I think it escalates up to about 5 percent of the total state fuel tax in exchange. And they agreed to spend it on building roads or health care for the people, education. And it was a very good arrangement back and forth. And as I recall, part of the compensation the tribes participated in had to do with literally the size of the Tribe.

Chief GRAY. Right.

Mr. COLE. So, you don't happen to know how you're defined under that agreement.

Chief GRAY. We never signed that contract. We don't have, you know, a business that would need to have one. However, if we do decide to do that, then that compact process would be there for us to utilize.

Mr. COLE. And this actually would, frankly, allow you to participate a little bit more fully in that revenue sharing due to the size of the Osage Nation, the official size. It's not like the size is

changing. I mean there's a little more to that. The official size of the Nation would finally reflect its real size culturally in terms of its collective identity.

Chief GRAY. That's correct.

Mr. COLE. Well, thank you very much. Again, I just want to tell you both how much I appreciate the fact that you've taken up a hundred year old battle, and pushed it so far toward what we hope will be a successful conclusion. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Carson.

Mr. CARSON. Thank you all for being here. Let me associate myself with what Congressman Cole said, as well. And it's nice to see your wife here, as well, Councilman Freeman.

A couple of just technical questions for you. As the owner of a headright, do you have the right to bequeath that to anyone as you see fit, or is it constructed simply members of the Osage Nation, your lineal descendants or are there any restrictions at all, and where are those restriction to be found.

Mr. FREEMAN. Well, if you're Osage and you own a headright, you cannot sell it. You can't give it away during your life. And then this is what you speak of. At death, it can be bequeathed to one child out of three or four. Or, as I understand it, that if you get mad enough at all your kids, you can bequeath it to a niece or a nephew or someone else. Do you understand it that way.

Chief GRAY. Uh-huh.

Mr. CARSON. Does it have to be a blood relative like that?

Mr. FREEMAN. I beg your pardon.

Well, no, to any Osage. But it cannot be bequeathed to a non-Osage.

Mr. CARSON. By Osage, you mean someone with a CDIB card? Because to be defined as an Osage majority, you have a headright. So, you know, who is the eligible pool to receive this.

Mr. FREEMAN. Well, now there you make a very good point that you need to take back to Washington. How do you determine who is an Osage.

It's by blood, of course. And we do it by our families. So, here we're going under this conjecture that we can only leave it to Osages. And yet, we haven't determined yet for sure legally who an Osage is. So, that's a point you raise that I cannot answer until we do this.

Mr. CARSON. And are there any restrictions on the fractionalization of an interest? You said you had six children. Could you give one sixth of your headright to each of those.

Mr. FREEMAN. Yes, sir.

Mr. CARSON. And there's no restriction on that.

Mr. FREEMAN. No.

Mr. CARSON. So how—you mentioned in your testimony, Councilman, that twenty-five percent of the headrights are now owned by non-Osage Indians.

Mr. FREEMAN. Yes.

Mr. CARSON. Some fraction of those by, what you called, bankrupt oil companies.

Mr. FREEMAN. Various and sundry—and some oil companies that are not bankrupt and by individuals.

Mr. CARSON. So, how did they get those.

Mr. FREEMAN. By church groups.

Mr. CARSON. I guess what I'm confused by this.

How did those twenty-five percent of the headrights end up in the hands of a non-individual Osage person?

Mr. FREEMAN. By virtue of the way the BIA was taking care of our business when they had complete control of the guardianships that were appointed by the legal policies that were held forth by the State Government, by the Federal Government. That's the way they got out of their hands.

And you have read about the murder trials in Osage County, whereas one family composed of quite a few people, were murdered. That's just one they wrote about. This happened in a smaller way with families who were killed. This happened with mothers which labor was induced into them to have a child back there before allotments could get there in time for allotments, all of these things. I'd go through a litany, but I need to stop.

Mr. CARSON. Are there people who are non-Indian individuals who have a headright?

Chief GRAY. Yes, sir.

Mr. CARSON. And say they want to show up on election day.

Chief GRAY. Only Osages with headrights are allowed to vote that are over the age of eighteen.

Mr. CARSON. I'm in this like infinite group of—I mean I'm going to have to regress on this.

To be on Osage is to have a headright. But you can't vote if you don't—you're both an Osage and headright, which is to have some distinction. Are you saying you have to show your CDIB card and have a headright, or what is the procedure with that.

Chief GRAY. You are making our case for us, Congressman.

But I think what I—the best way I can try to answer this is we have several amendments to the 1906 Act, and one of them was in 1978 that basically verified that Osage headrights, if they do not have an heir that's Osage. It needs to go to—have a structured way in which the headright can remain within the Tribe or within an Osage family.

Recently, two and a half headrights that were in non-Osage hands were put up for an auction, and only Osages were allowed to bid on them if you were a member. And they were made available through public auction. And if nobody was to bid on them within Tribal Council, then they were available, and the body of the Tribe could bid on them as an attempt to try to maintain the headrights within the Tribe with the individual Tribal members.

Mr. CARSON. My time is up, but I have a couple more questions, if Mr. Chairman would indulge me.

Does the Tribe litigate these issues?

Obviously, the headright is a valuable property. And as a non-Indian headright owner, I have ever interest in seeing that handed down to my children where they can enjoy the monetary value of that. I mean is the Tribe litigating these issues against the people who are trying to pass it on to generations outside the Osage Nation.

Chief GRAY. Essentially, once it's out of Osage hands, it's very, very difficult for the Tribe to exercise the legal jurisdictions of that.

It's a very complicated issue. And yes, it is going to be—have to be a matter of litigation for anything to be resolved in those areas where the headright has been removed from the Tribe, the individual tribal members.

In the case that I mentioned earlier, this was a case where the individual estate put this in the will, how it was going to be distributed back. It was a very rare occasion. It's never happened before. But it was certainly encouraging to see that happen. And the Tribe was definitely fortunate that all of the auctions went to Osage, as it was set up to do, and we were prepared to jump in.

Mr. CARSON. One last question. If this legislation passes, the Osage Nation will have the right to define its own membership. Obviously, Congressman Cole and I have talked a lot about that with our own respective tribes, where their lineal descendant in the census in the twentieth century is quite an integral number. But that's an unusual approach across Indian country where, as you know, sometimes are patholineal, certain blood requirements.

Is there—what in Osage history or culture will drive the determination of the Osage Nation who becomes a member or who anticipated it would be—all lineal descendants would be people prior to the 1906 Census, so it was part of the Act that we're dealing with today.

Mr. FREEMAN. I'd like to answer that because it needs clarification. And we have passed a resolution by virtue of the waiving of our sovereignty by the BIA. This can be taken back tomorrow. And we passed a resolution for membership. That resolution says that all the descendants of the twenty-two hundred and twenty-nine living La-ti are members of the Osage Tribe.

My hope is that that's the way it will remain. We don't want to get back into a fighting contest over this and that and the other. That's what needs to be done. What will be done, I hope.

Mr. CARSON. And how many people do you think that is?

Mr. FREEMAN. Today?

Well, it's conjecture, because a lot of them have gone away three and four generations and haven't come back. But they will come back, some of them. Which there may be—we know there's sixteen thousand, more or less, CDIB cards issued to Osage Indians. There are others that have been born since then, and some who have died. But I would venture to say someplace in the area of twenty thousand people will be affected by this.

Mr. CARSON. Thank you, Mr. Chairman, for letting me extend my time.

The CHAIRMAN. Mr. Lucas.

Mr. LUCAS. Thank you, Mr. Chairman. Chief and Councilman, could we for a moment discuss just a little bit of the early history of the Osages? Chairman Pombo asked questions about how we ever got this law in the first place.

You stated in your testimony the Osages were in Kansas.

You sold your property, came to Oklahoma of your own free will, and bought basically Osage County now. And at the time, Oklahoma then was opened up by the Federal Government for more settlement.

You know, it's kind of ironic, Chairman Pombo, that the Osages actually came here of their own free will. Most tribes did not always have that option when they came to Oklahoma.

Mr. FREEMAN. Well, I'm going to have to—

Mr. LUCAS. Which is kind of unique.

Mr. FREEMAN. Well, I'm going to have to take exception to that. It wasn't of our own free will. I'm sorry. And it started—to give you a long story short, the year my grandfather was born in 1872, that's the year they moved down here from Kansas. But previously, they lived in Carter County, and they made—Lewis came back and made the first treaty in 1808 and took part of Missouri and part of Arkansas. And then Clark came back in 1818, and they took some more. And then eventually when the five civilized tribes were moved out here, they took Oklahoma. And we own plumb down to the Red River, the Arkansas and places. That was all taken.

The last analysis, we were forced down here. We had the treaty, the treaty of 1868, but it didn't hold water. They came on in to another deal. They finally dealt with the Cherokees. They took our land. They paid us so much for it. They took money out of that and paid for this.

So, in essence, in 1906, we owned this as a Tribe in fee simple, like an individual does rather than like a treaty.

Mr. LUCAS. Exactly.

Mr. FREEMAN. And the Government found themselves—they had their pick. All other tribes were able to come in there and say, "We're going to allow you to give forty acres or a hundred and sixty acres, seventy acres per Tribal member," and declare the rest over. Well, they kind of had their pick on it. We had some good, old people who were smarter than we give them credit for then.

Mr. LUCAS. Very true.

Mr. FREEMAN. Doing the best they could under the worst of circumstances. And they held on. They did give six hundred and forty acres, plus another forty-six to each Tribal member, twenty-two hundred and twenty-nine, and kept that valuable mineral asset that I have no idea how they'd know how valuable it was. By that's where we got where we were.

And I want to say this one thing. He also went back to those people, Chief, at that time when he come down here, and he said, "Let's go down there. Those white men can't put that iron thing in the ground."

He'd been up where my ranch is where the white rocks are.

And it was the farmers that were coming in. We Osages like that bottom land. It's more productive, you know, just like other people do. And when they came in, the farmers would come in.

Which I recall see the medicine man, who said he could turn himself into a coyote and many different things. So, he made a pretty good trail down here, and he made a good talk.

Mr. LUCAS. Council, quickly, how many acres in the mineral estate do you have?

Chief GRAY. About a million and a half, sir.

Mr. LUCAS. A much better job negotiating, yes.

And also, Chairman, when was the first oil well drilled in the Osage Nation? It was before statehood.

Mr. FREEMAN. It was before statehood, yes, up by the Cherokee country up the road by Bartlesville. Foster number—no. That wasn't the first.

Mr. LUCAS. And most certainly the fact that there was such tremendous production in the early days in your part of Oklahoma got you more attention, good or bad, from the Federal Government than anyone else. And literally, Chairman, prior to the first World War, we produced more crude oil in Oklahoma than Texas or any other state. Tremendous, tremendous resources at the time. Of course, oil wells, like everything else, eventually play out. But it was a huge amount of resource that were on the line that led to a lot of horrendous things for the Osage people that went on in this country at that time.

Chief GRAY. Congressman, I would add that the wealth of the Tribe, albeit it has its negative impacts on the culture of the Tribe, the positive impact was that the resources allowed the Tribe to maybe support its culture and maintain its integrity during some very, very hard times that followed. So, it is what it is.

Mr. LUCAS. Very true. Very true.

Mr. FREEMAN. If I may, on the production and the mineral trust and the headrights. This Council has attempted to find a way that we can some way buy back, if we can get the names of people who own these headrights. And after death or some other way, we can continue to buy back those. That also is a part of our culture. It's one of those things.

So, we have these dreams, like you all do have dreams.

We want to work on that.

Mr. LUCAS. Thank you, Chief and Councilman, for being such good people to work with.

Back to you, Mr. Chairman.

The CHAIRMAN. Before I excuse this panel, I just wanted to ask a follow-up to what Mr. Lucas was talking about.

When did they actually discover that there was oil under Osage land?

Chief GRAY. I'd say at least twenty-five years after we were settled here. It was right before—it wasn't before statehood. And it was late in the 1890's. I'm not sure exactly what the date we discovered the oil was, but it was well after we were established here.

The CHAIRMAN. So, when the 1906 law went into effect, they knew that there was a valuable resource there.

Chief GRAY. Correct.

The CHAIRMAN. So, that quite probably led to what some of the thinking and motivation was behind that original—

Chief GRAY. I would say that, plus the unique way in which the Osages arrived here allowed us the abilities to maintain the subsequent tribes.

The CHAIRMAN. Well, thank you very much for your testimony. This has been very interesting and very valuable, and I appreciate both of you gentleman being here. And again, I will tell you if there are any further questions of members of the community now, they will be submitted to you in writing. And if you would answer them in writing for the Committee, I would appreciate it. Thank you.

Mr. FREEMAN. If I could add one thing to the last question, Chief, the knowledge about the oil.

As you all said before, at the time that the 1906 Act was set up for a twenty-five year life, those people who were leasing Osage land already and later would buy Osage land sure thought they were going to get the minerals, as well, in 1932. But it was extended and extended. And our own people, who didn't talk anguish too much, were talking about—what's that word they always said?

Chief GRAY. Perpetuity.

Mr. FREEMAN. Perpetuity. I think you all know perpetuity. We finally got it in '84 or '78.

Chief GRAY. Eighty-four.

Mr. FREEMAN. So, we did get perpetuity then. We finally did get perpetuity. So, they knew what they were doing just—we just could not do, under the rules we were working, what we would like to do. Now, we would like recognized that and appreciate the help.

Thank you for letting me add that.

The CHAIRMAN. Thank you very much.

I'd like to call up our third panel. We'll hear from Mr. R.E. Yarbrough, President of the Osage Shareholders Association, and two young ladies with a special interest, Jessica Rosemary Moore and Cherise Lookout.

If you want to scoot down one seat this way, it might be easier for the microphone.

If you would stand and raise your right hand.

Do you solemnly swear or affirm under the penalty of perjury that the responses given and the statements made will be the whole truth and nothing but the truth?

Thank you. Let the record show they all answered in the affirmative.

We'll welcome our panel, our third panel here today.

Mr. Yarbrough, we're going to begin with you.

**STATEMENT OF ROBERT E. YARBROUGH, CHAIRMAN,
OSAGE SHAREHOLDERS ASSOCIATION**

Mr. YARBROUGH. Chairman Pombo and members of the Committee, I want to thank you for the opportunity to testify before you today. My name is Robert E. Yarbrough. I'm the Chairman of the Osage Shareholders Association.

The Osage Shareholders Association is a grass roots organization made up of Osage individuals who are voting participants in our present form of government. We have vested interest in the Osage mineral estate trust. Our present form of government is unfair and inequitable in that the great majority of Osage people are disenfranchised by their inability to vote or participate in government at this present time. Therefore, we are forced to participate in a government that is not representative and has become undemocratic. There was only one point in time at the initial implementation of the 1906 Allotment Act when there was full voting participation by Osage people. Only Osage shareholders are allowed to vote and participate in the present form of government.

Since 1906 up to the present, our Osage governance has evolved into a democratic travesty. Many efforts have been made to rectify or alleviate this situation including lawsuits. It is with great sorrow our people continue to perpetuate this parody of representative government. The Osage people are not able to define their owner

membership, nor are they able to establish their own form of government.

Never again should a mother's or father's last will and testament need to be read in order to determine which children, if any, are granted headright interest and the right to vote. Only in the wildest imagination can one conceive the type of system that evolved from this Act.

In the case of Fletcher versus the United States, the plaintiffs were seeking a fair and equitable form of government before the Tenth Circuit Court of Appeals. The plaintiffs were admonished to take this issue to Congress. We would like to thank Congressman Lucas for bringing this issue to Committee. Over the last hundred years, the Osage people have been governed by a code of Federal regulations.

Sovereignty may be just a word that is intangible. Yet, it is a right granted by God that flows from the people and is exercised by every other tribe in this country. Our people deserve this right and the freedom to express themselves without the interference of bureaucratic agencies.

Since the 1906 Act, there have been eleven amendments that have only addressed issues concerned with the mineral estate trust and its shareholders. None of the eleven amendments dealt with the sovereignty issue we are addressing today. The problems that face the Osage people today can only be remedied by a Congressional Act reaffirming our tribal sovereignty. Our tribe stands united in our efforts to effect this change, and we support this bill.

Thank you for your time.

[The prepared statement of Mr. Yarbrough follows:

**Statement of Robert E. Yarbrough, Chairman,
Osage Shareholders Association, on H.R. 2912**

The Osage Shareholders Association is a grass roots organization made up of Osage individuals who are voting participants in our present form of government. We have vested interest in the Osage Mineral Estate Trust. Our present form of government is unfair and inequitable in that the great majority of Osage people are disenfranchised by their inability to vote or participate in a Government that is not representative and has become undemocratic. There was only one point in time, at the initial implementation of the 1906 Allotment Act, when there was full voting participation by the Osage people. Only Osage shareholders are allowed to vote and participate in the present form of government.

Since 1906 up to the present, our Osage governance has evolved into a democratic travesty. Many efforts have been made to rectify or alleviate this situation, including lawsuits. It is with great sorrow our people continue to perpetuate this parody of representative government. The Osage people are not able to define their own membership, nor are they able to establish their own form of government.

Never again should a mother's or father's last will and testament need to be read in order to determine which children, if any, are granted headright interest and the right to vote. Only in the wildest imagination can one conceive the type of system that evolves from the Act.

In the case of Fletcher v. United States the plaintiffs were seeking a fair and equitable form of government before the 10th Circuit Court of Appeals; the plaintiffs were admonished to take this issue to Congress. We would like to thank Congressman Lucas for bringing this issue to Committee. Over the last hundred years the Osage people have been governed by a code of federal regulations.

Sovereignty may be just a word that is intangible. Yet, it is a right granted by God that flows from the people and is exercised by every other tribe in this country. Our people deserve this right and the freedom to express themselves. Without the interference of bureaucratic agencies.

Since the 1906 Act there have been eleven (11) amendments that have only addressed these issues concerned with the Mineral Estate Trust and its shareholders.

None of the eleven (11) amendments dealt with the sovereignty issue we are addressing today. The problems that face the Osage people today can only be remedied by a Congressional Act reaffirming our tribal sovereignty. Our tribe stands untied in our efforts to affect this change and we support this bill.

The CHAIRMAN. Thank you, sir.
Ms. Moore.

**STATEMENT OF JESSICA ROSEMARY MOORE,
FAIRFAX, OKLAHOMA**

Ms. MOORE. Members of the House Committee on Resources, I am deeply honored to have been asked to testify before this Committee in support of H.R. 2824, legislation that would affirm the inherit sovereign rights of the Osage Tribe to determine its own membership and form of government. This legislation would allow the Osage Tribe to establish Tribal membership laws that would allow Osages like me, those who do not have Osage mineral estate headrights, to become members of the Osage Tribe.

I would like to tell you more about myself and my family of whom I am very proud. I am Osage from both sides of my family. My mother, Terry Mason Moore, is descended from her grandparents full blood original allottees, Joseph C. And Rose Mason. Joseph C. Mason was a member of the Osage Tribal Council in the 1950's. My mother is a current member of the Osage Tribal Council. My father—her father, Joe Mason, a full blood Osage, is featured as a model of an Osage Chief in the murals contained in the rotunda of the Oklahoma State Capitol. My father, Theodore Moore, Jr., who is descended from his great grandparents full blood original allottees, Amos and Eliza Osage.

My family resides in Fairfax on the Osage Reservation, and we belong to the Grayhorse District. I have participated in the annual Osage In-Lon-Ska dances in Grayhorse since I was able to walk. My father is a tail dancer, and my brother, Dillon, is a water boy for the Grayhorse District. I previously served as the 1998 Osage Tribal Princess. During the past three summers, I have worked at the Whitehair Memorial, located on the Osage Reservation, and a part of the Oklahoma Historical Society helping to catalogue Osage documents and videotapes. My ties with the Osage Tribe are very strong.

I am three-fourths degree Native American, including three-eighths Osage, but I'm not eligible for enrollment in any tribe but Osage. Because I am not enrolled in any other tribe, I cannot apply for any Native American scholarships that require proof of enrollment in a federally recognized tribe. As a college student, and a Native American of high degree of Indian blood, I should be able to access those scholarships.

For example, I am a freshman at Oklahoma State University in Stillwater, Oklahoma. If I were to have attended the University of Oklahoma, I would not have been considered a Native American student under their rules. In the OU Application, it is required for a Native American applicant to submit a copy of their tribal enrollment card to qualify for American Indian scholarships. While I have a certified degree of Indian blood, CDIB card, from the Bureau of Indian Affairs, a CDIB does not mean a person is a Trib-

al member. So, if I had applied to OU, I would not be recognized as a Native American because of the requirements. This is wrong, and it is up to Congress to fix this situation.

Of even greater personal concern to me is that my non-tribal member status could actually interfere with my ability to practice my spiritual beliefs and fully participate in tribal ceremonies that I and my family hold as necessary.

I am a member of the Native American Church. And the Federal Government has enacted protection for the rights of Native American Church members to practice their beliefs. This protection only extends, however, to members of federally recognized tribes. It is absurd that I would not receive the same protection as a person who is one thirty-second Indian who is a member of a federally recognized tribe.

Furthermore, I am a traditional dancer that requires the use of eagle feathers for participation. Because I cannot prove enrollment in a federally recognized tribe, I cannot apply for eagle feathers or a permit from the U.S. Fish and Wildlife Department.

Members of the Committee, I humbly ask for your support in this important legislation.

[The prepared statement of Ms. Moore follows:]

Statement of Jessica Moore, Osage Descendant

Members of the House Committee on Resources, I am deeply honored to have been asked to testify before this Committee in support of H.R. 2824, legislation that would reaffirm the inherent sovereign rights of the Osage Tribe to determine its own membership and form of government. This legislation would allow the Osage Tribe to establish tribal membership laws that would allow Osages like me, those who do not have Osage mineral estate headrights, to become members of the Osage Tribe.

I would like to tell you more about myself and my family, of whom I am very proud. I am Osage from both sides of my family. My mother, Terry Mason Moore, is descended from her grandparents, full-blood original allottees Joseph C. and Rose Mason. Joseph C. Mason was a member of the Osage Tribal Council in the 1950s. My mother is a current member of the Osage Tribal Council. Her father, Joe Mason, a full-blood Osage, is featured as a model of an Osage Chief in the murals contained in the rotunda of the Oklahoma State Capitol. My father, Theodore Moore Jr, is descended from his great-grandparents, full-blood original allottees Amos and Eliza Osage. My family resides in Fairfax, on the Osage Reservation, and we belong to the Grayhorse District. I have participated in the annual Osage In-Lon-Ska dances in Grayhorse since I was able to walk. My father is a tail dancer and my brother Dillon is a water boy for the Grayhorse District. I previously served as the 1998 Osage Tribal Princess. During the past three summers I have worked at the Whitehair Memorial, located on the Osage Reservation and part of the Oklahoma Historical Society, helping to catalogue Osage documents and videotapes. My ties with the Osage tribe are very strong.

I am 3/4 degree Native American, including 3/8 Osage, but am not eligible for enrollment in any tribe but Osage. Because I am not enrolled in any tribe, I cannot apply for any Native American scholarships that require proof of enrollment in a federally recognized tribe. As a college student, and a Native American of a high degree of Indian blood, I should be able to access those scholarships. For example, I am a Freshman at Oklahoma State University in Stillwater, Oklahoma. If I were to have attended the University of Oklahoma in Norman, I would not have been considered a Native American student under their rules. In the OU application, it is a requirement for a Native American applicant to submit a copy of a tribal enrollment card to qualify for American Indian scholarships. While I have a Certified Degree of Indian Blood (CDIB) from the Bureau of Indian Affairs, a CDIB does not mean a person is a tribal member. So if I had applied to OU, I wouldn't be recognized as a Native American because of the requirements. This is wrong, and it is up to Congress to fix this situation.

Of even greater personal concern to me is that my non-tribal member status could actually interfere with my ability to practice my spiritual beliefs and fully

participate in tribal ceremonies that I and my family hold as necessary. I am a member of the Native American Church, and the federal government has enacted protections for the rights of Native American Church members to practice their beliefs. This protection only extends, however, to members of federally recognized tribes. It is absurd that I would not receive the same protection as a person who is 1/32 Indian who is a member of a federally recognized tribe.

Furthermore, I am also a traditional dancer that requires the use of eagle feathers for participation. Because I cannot prove enrollment in a federally recognized tribe, I cannot apply for eagle feathers or a permit from the U.S. Fish and Wildlife Department.

Members of the Committee, I humbly ask for your support for this important legislation.

The CHAIRMAN. Thank you.
Ms. Lookout.

**STATEMENT OF CYNTHIA CHERISE LOOKOUT,
HOMINY, OKLAHOMA**

Ms. LOOKOUT. Thank you members of the Committee for this opportunity to testify today. I am honored to have been invited to represent my Tribe and to give my viewpoint on this legislation. In my Tribe, usually the men in the Tribe, if I have something to say, they usually speak for me. So, this is a very—I'm very happy about this opportunity to be able to speak.

My name is Cynthia Cherise Lookout. I am twenty 3 years old. I am half Osage from Hominy, Oklahoma. I was raised on the Osage Reservation and continue to live there. My mother is with me today and is a full blood Osage. She was born to Henry and Dora Lookout of the Pawhuska District. My great grandfather, Fred Lookout, was the Chief of the Osage Tribe for many years until he passed. The Lookout family have had prominent roles in the political and ceremonial rights of the Osage Tribe.

I have been raised around my culture. I have witnessed and experienced many good and remarkable things. I am here today because I think the right to govern ourselves in tribal affairs is very important and vital to the Osage people. I believe that many things need to be addressed and changed in the way that our Tribal Nation functions. We have a federally recognized tribe. If the United States recognize us as such, should we not have the right to govern, help, support ourselves as a people, as a nation.

I have gone to two tribal elections growing up. I have seen the process in which those that get to vote. I've heard endless talks about those with more headrights, and what it means to have more headrights in tribal elections. Those with more headrights or more of a headright have more political power, because of the way the voting system is set up. I, as half Osage, living on the Osage Reservation, being of legal age, cannot vote or even run for a Tribal Council seat if I chose. There are things that I have not been able to partake in, because of the way the Osage Tribal Government is set up.

In comparison to other tribes, I thought that we were a sovereign tribe, that we had the right to change the things that we thought were wrong and to correct those things. I have been told many times that Osage Tribe is different from other tribes, because of the treaties and acts that we have obtained over the years making our laws and government different. I also know that the people that

signed those documents thought that they were acting on the best interest of our tribe.

Times have changed. Those interests that were important to us then are still now. The only difference is that it effects us differently. I know that there are many people that have attempted to try to change those things before to make things better for us.

As a voter, it would be hard for me to say that I would be concerned with other people if I was in their place. I am not. So, I have to look at this from their view. I also have to look at this from my view, as well as my future generation's view. What kind of legacy am I leaving to them? Will I leave them something that they will believe in, something that will support them if needed. Can I say that I did everything in my power to make things best and fair for them.

I believe that the people that possess headrights are mainly concerned with their royalty. I would not want my mother's land or headrights taken from her, because of the vast majority of non-headright holders that would have a voice and a vote on these issues. The issues with the mineral rights seems that there can be no real progress until we have a new form of government where our government was not centered around the headrights. I think that it should be separate from the process of governing all, including those like me without headrights or land. Indian monies is the main concern with the Tribe, because they're the only people with the privilege of voting. The Osage Tribe counts me for tribal grants and funding, but I do not have the voice in how that money is distributed, because I do not have a vote or even a partial vote. I am not a constituent of the Osage Tribe, meaning that the representatives on the Tribal Council do not have to listen to me. They don't have to pay any attention to me or how I feel or what I think concerning my tribe. I have to wait until my mother passes away before I am a member of the Osage Tribe, before I receive even a partial vote. And only then, if she decides to leave me what she has. If she decides to leave me out, then I will never be able to have a voice. Neither will my children.

I am a person that believes in education. I went to the University of Oklahoma for three semesters, but I was not recognized as a Native American by the university, because I was not a member of the Tribe. This also disqualified me for a Native American scholarship from the university. I would like to have a voice in the things that my tribe does. I want to see my tribe be able to provide for ourselves, to invest in ourselves, to make us stronger as a people. I would like to see programs and services for those that need them. I would like to see the Osage Tribe depend on themselves, not just the government and oil—money they get from oil royalties. I want to see a strong and unified nation, one that works for every member, every person no matter their social status or what they were left. Because that does not make me or anyone else that is of Osage descent less of what they are.

There are so many things that need to be done within the Osage Tribe. There are so many issues, so many ideas on what could be done. Reaffirming the inherent sovereign rights of the Osage Tribe to determine its membership and form of government is just a stepping stone for our nation to progress and deal with the issues our-

selves, issues that we are facing today and issues that we will face in the future. I strongly urge the U.S. Congress to pass this legislation, so Osages such as I can have a right of other Native Americans across the country, because without it, I may never have a voice.

Thank you.

[The prepared statement of Ms. Lookout follows:]

**Statement of Cynthia "Cherise" Lookout, Osage Descendent,
Osage Tribe**

My name is Cynthia Cherise Lookout. I am twenty-three-years-old. I am half Osage, from Hominy, Oklahoma. I was raised in Osage county and continue to live there. My mother is a full-blood. Both of her parents were full bloods. Her grandfather was chief of the Osage tribe intermittently from 1912 to 1949.

I have been raised around my culture. I have witnessed and experienced many good and remarkable things. I have written this testimony, because I think that the right to govern ourselves is very important and vital to the Osage People. I believe that many things need to be addressed and changed with the way that our tribal nation functions. We are a federally recognized tribe. If the United States recognizes us as such, should we not have the right to govern, help, and support ourselves as a people, as a nation?

I have gone to two tribal elections growing up. I have seen the process in which those that get to vote, vote. I have heard endless talks about those with more headrights, and what it means to have more headrights in tribal elections. Those with more headrights, or more of a headright, have more political power because of the way that the voting system is set up. I, as a half Osage, living in Osage county, being of legal age, cannot vote or run for a tribal council seat. There are things that I have not been able to partake in because of the way that the Osage tribal government is set up.

In comparisons to other tribes, I thought that we were a sovereign tribe, that we had the right to change things that we thought were wrong and fix those things. I have been told many times that the Osage tribe is different from other tribes because of the treaties and acts that we have obtained over the years making our laws and government different. I also know that the people that signed those documents thought that they were acting on the best interests of our tribe, and at that time it seemed to be the best way. Times have changed. The United States government has changed as the Osage tribe has also. Those interests that were important to us then are still now. The only difference is that it affects us differently. I know that there were many people that have attempted to try and change these things before, to make things better for us as a people.

As a voter, it would be hard to say that I would be concerned with other people if I was in their place. I am not. So I have to look at this from their view. I also have to look at this from my view, as well as my future generations' view. What kind of legacy am I leaving to them? Will I leave them something that they believe in and something that will support them if they needed?

I believe that the people that possess headrights are mainly concerned with their royalties. I would not want my mother's land or headright taken from her because of the vast majority of non-headright holders that would have a voice and vote on these issues. The issues with the mineral rights seems that there can be no real progress until we have a new form of government, where our government was not centered around headrights. I think that it should be separate from the process of governing all, including those like me without headrights or land. Indian Monies is the main concern with the tribe, because they are the only people with the privilege of voting. The Osage Tribe counts me for tribal grants and funding, but I do not have a voice in how that money is distributed, because I do not have a vote, or even a partial vote. I am not a constituent, meaning that the representatives on the Tribal Council do not have to listen to me.

I have to wait until my mother passes away before I am a member of the Osage tribe, before I receive a partial vote, and, only then, if she decides to leave me a part of what she has. If she chooses to leave me out, then I will never be able to have a voice. Neither will my children.

I am a person that believes in education. I went to the University of Oklahoma for three semesters, but I was not recognized as a Native American by the University, because I was not a member of a tribe. This also disqualified me for Native American scholarships.

I would like to have a voice in the things that my tribe does. I want to see my tribe to be able to provide for ourselves, to invest in ourselves, to make us stronger as a people. I would like to see more focus on providing money for educating the people in my tribe. I would like to see programs and services for those who need them. I want to see my tribe to be able to provide for ourselves, to invest in ourselves, to make us stronger as a people. I would like to see that money come from the Osage tribe, not from the government. I would like the tribe to be concerned with all of the Osage tribe, not just those that have headrights. I want to see a strong and unified nation, one that works for every member, every person, no matter their social status, or what they were left, because that does not make me or any one else that is of Osage descent less of what they are.

There are so many things that need to be done within the Osage tribe. There are so many issues, so many ideas on what could be done. Reaffirming the inherent sovereign right of the Osage Tribe to determine its membership and form of government is just a stepping stone for our nation to progress and deal with the issues ourselves. Issues that we are facing today, and issues that will face us in the future.

The CHAIRMAN. I'm sure that your elected representatives would have a very difficult time not listening to you.

Out of curiosity, the two young ladies that are here both are in the situation that we've been talking about. If I could, just by a show of hands, how many people that are here right now that are in that same situation? They're Indian by blood, but because of one situation or another, don't have a vote right now.

Thank you.

While, on the other hand, how many are here that do have a vote?

About half.

Well, that's interesting. I appreciate the testimony from this panel in trying to deal with this issue.

The situation that you two young ladies find yourself in right now I think is something that has led us to this point in terms of trying to deal with this legislation. I appreciate your testimony here.

Mr. Yarbrough, it's my understanding that, as this bill would be enacted, it doesn't impact the property rights, headrights that individual Osage own. It only impacts the ability of the Tribe to organize and determine its membership.

Mr. YARBROUGH. Yes, sir. That's our understanding, also.

The CHAIRMAN. And that is—it is with that understanding that we are moving forward in trying to deal with this legislation. You, in your position, have come here in support of the legislation. And it's my understanding that, because of the testimony that we received both from previous panels and from this panel, that that is a fairly broad consensus amongst the Osage people in terms of this is something that has to be done.

Mr. YARBROUGH. Yes, sir, very broad.

My mother passed away 4 years ago. I was on this side of the table for a big part of my life. I've been a long time advocate of one man, one vote. It was supervising to me when I was elected to this position. They elected me by acclamation, because they knew what my political views were when they elected me.

The CHAIRMAN. The issue in terms of what we're dealing with in allowing that—in returning the right to select tribal membership and the ability to govern, self governing, has that been broadly discussed amongst the Osage people? Has that been something that is—everybody is aware that this has moved forward.

Mr. YARBROUGH. I think I was sixteen or seventeen years old during the Logan versus Andrews case. And I have been advocating one man, one vote since I was seventeen. And this issue, we've had referendum, surveys. My entire life this has been the main issue among the Tribe.

The CHAIRMAN. If somebody were to contact the Committee at this point and say that they were unaware that we were looking at this legislation, would you be surprised.

Mr. YARBROUGH. I wouldn't be surprised. But I wouldn't know why they would be uninformed. No one from the Reservation area is uninformed. Everyone is very keen on what we're talking about today, and they have been for years.

The CHAIRMAN. We haven't received any letter. I'm just—you know, as we're moving forward with this, I have spent a lot of time talking to Congressman Lucas about this. Because one of the things and one of the reasons why we're here is we want to make sure everybody knows that this is what we're doing and why, and that there is a broad consensus. I know that getting a one hundred percent unanimous agreement is impossible to ever do on anything. But we are very interested that we move forward with something that there's broad consensus on. And as Mr. Kildee said, to right a wrong or to undo an injustice that had been done in previous years is one of the reasons why the Committee is here, is to make sure that everybody is aware of what we're doing and why we're doing it, and that there is broad consensus on that.

Mr. YARBROUGH. As long as the headright shares are protected, I'm sure there's not going to be any problem from our viewpoint.

The CHAIRMAN. Mr. Lucas, Congressman Lucas has stressed that, that that has been one issue that, as he was developing this legislation and talking with the Tribal leaders, that that is something that had to be effective. And it was something that was near unanimous agreement on amongst all the folks that were working on this. We just want to make sure that everybody is on the same page and knows where we're going. As Mr. Kildee said previously, this is a bipartisan effort amongst a lot of folks in the House of Representatives to try to move forward with this. And we want to make sure that everybody knows why, and what we're doing.

So, I appreciate your testimony, and your making the effort to be here and to participate in this hearing. Because I do think that's something that's extremely important to this Committee is that we have more support and as much support as we possibly can from the people. So, thank you.

Mr. KILDEE. Thank you, Mr. Chairman.

Mr. Yarbrough, do the headright shareholders, in general, wish to give the Osage Government the power to extend full citizenship to those who are not headright shareholders.

Mr. YARBROUGH. Yes, we do.

Mr. KILDEE. I know that was in your testimony, but I think it's real important that we clarify that very clearly in this record.

I think that's a very enlightened and a very generous position, and it speaks well of the culture of your tribe and your nation. I mean I'm personally edified by it. I think that shows a great deal of enlightenment.

Culture doesn't die. The culture lives yet today. And the culture that existed back before 1906 is still—you can still see that spirit of generosity and the willingness to share the political power. And I think that speaks very well of your tribe.

Mr. YARBROUGH. Mr. Kildee, most everyone in our tribe realizes that this is the right thing to do.

Mr. KILDEE. That's very good. I commend you, commend them for that.

Jessica and Cherise, from your testimony, it appears very clear that full citizenship goes beyond just voting rights. It goes to your cultural rights. Could you just expand that a little bit further.

Ms. LOOKOUT. I did go to the University of Oklahoma. I did get financial aid and stuff. But for people that are on the borderline of, you know, not being—not getting very much money to go to school—I have a cousin who applied to the University of Oklahoma that wanted help with money. And they told him—and we tried. They issued membership cards, you know, application to try to, you know, see if they could do that. And he was—he received one, and they didn't accept it. And then his dad filed a letter to ask if they could use that membership card for the university, so he could have scholarship money. And they said no, that it—because of the 1906 Act, that that membership card was not valid.

Mr. KILDEE. Jessica, do you have anything to add to that?

Ms. MOORE. For many other situations of college students, there are a lot of Native American scholarships out there that can be of use to us, but they require proof of enrollment in the Tribe. And people like myself cannot apply for those because of not being enrolled.

Mr. KILDEE. Go ahead.

In Michigan, I and Senator Jesse Vaughn, thirty-five years ago introduced a bill while I was in Michigan legislature called the Michigan Indian Waiver Act. Any Michigan Indian of a recognized tribe can go to college, any public college in Michigan and receive fees and tuition. And we had a situation there that was very complicated, so I can see where—

Ms. LOOKOUT. And I do know that there was money given to the University of Oklahoma before 1978 before they said that you couldn't then leave headrights to non-Indians. They were given to institutions such as the University of Oklahoma. But you have to be a member of the Tribe to use that, and you have to be a male. So, I couldn't use it or any other male Osage that was not a headright could not use that scholarship for money. So, they're just ganging up on it using our money, but we have no access to that.

Mr. KILDEE. And such things as the cultural use of—

Ms. LOOKOUT. Yes.

Mr. KILDEE. Would be denied you if you're not—

Ms. LOOKOUT. And a lot of provisions have to be made for a lot of different things. Like I like to play basketball, independent basketball. And as Native Americans, we love basketball. And I play a lot. And if I go out to Albuquerque, we have to be a member of a tribe. Well, I'm half.

So, you usually have to have—get a letter from our Tribe or something saying, you know, she will be eventually, maybe. And a lot of people, you know, get to know me and say, "OK. We know

you're OK. We know who you are." But if they didn't know who I was, they're like, "You're not a member. You can't participate."

Mr. KILDEE. Well, let me say this. I think your ancestors from Kansas who came to Oklahoma looking down would be proud of what you are doing.

Ms. LOOKOUT. Thank you.

Mr. KILDEE. I see a generosity among your nation that could be an example for other nations of the world.

Ms. LOOKOUT. Thank you very much.

Mr. KILDEE. Thank you.

The CHAIRMAN. Mr. Cole.

Mr. COLE. Thank you, Mr. Chairman.

And I want to make the same point Representative Kildee did so eloquently. It is remarkable to—we, quite often, find ourselves in situations where we see fights over memberships and tribes. And where we see people voluntarily extending full participation in political rights, to have this degree of unity, is just a remarkable statement about the Osage people, and something that you should be extraordinarily proud of in your history and in your current leadership. And it's just a remarkable, remarkable spirit.

Let me ask you. Do any of you know—I can't—I think of parents that must have gone through agonizing decisions about passing on headrights. Because you might have a situation where it made perfect sense to divide a family's estate in certain ways, somebody getting headrights, somebody else getting, perhaps, some other kind of property, and on down. But in knowing, when you've made a decision like that, if you decided to keep headrights intact because it simply made economic sense, that you may be depriving one of your offspring of their cultural identity and in a sense their status as a unique member of the Tribe. Do any of you know parents that went through those kind of decisions.

Ms. LOOKOUT. I don't know. I do know that there are Osages out there that have died and never been able to have a voice, a political voice in things of this nature. And I know that there are probably people in their forties and fifties that are still waiting to have a voice. So, it's just not college students such as us. They could be as Mr. Freeman, he's seventy-eight, until they have a voice or even a partial. And when you leave somebody out—I think my mother could say, "Hey, you know, your brothers, they have more kids than you. You may never have kids. We're going to—I'm going to give it to the boys."

So, then I would never. And if she dies and I have kids, I don't have—I'm the youngest of five children.

Mr. COLE. And again, I mean it's just astonishing—my brother and I own an allotment of land, the last part that we have in the family together with the right of survivorship. So, that would literally mean that—and we both have children. It would literally mean that one side or the other would lose their Chickasaw identity or heritage in a legal sense the minute—you know, whoever died first. Their family is kind of out forever in terms of being—with the Chickasaw Nation. That would be an extraordinarily difficult to see. And the process is just amazing to me. We've gone beyond that as a country a long time ago in defining citizenship

rights. We did at one time with property rights. But the fact that we're doing that in the early twentieth century is just remarkable.

I just, again, want to tell you how impressed I am with you as individuals and with, frankly, the spirit behind what you have to say. So, thank you for taking your time to come here and educate us. Thank you, quite frankly, as a people for showing such remarkable vision and foresight and conclusiveness in your decision-making process. Again, it is quite remarkable and quite unusual. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Carson.

Mr. CARSON. Let me reiterate, as everyone else has said, how much we appreciate the testimony from Ms. Moore and.

Ms. LOOKOUT. Because I think you have given us all of the outstanding testimony of how this really impacts people in the Tribe. And to Chairman Pombo, thank you, again, for coming in from California and everyone here on a rainy Monday morning for being here, too. That says much about the commitment of the people to have this changed.

Just a quick question for Mr. Yarbrough. And I may have—let me know if I misstated the legal issues involved here.

The mineral estate is held essentially as tenants in common to people with headrights. Is that correct.

Mr. YARBROUGH. Yes. That's correct.

Mr. CARSON. And I know we've talked a lot in here about protections that the headright owners have. This legislation wouldn't effect them.

Does the Tribal Council have the right to alter the disposition of the mineral estate among Tribal members? If not, what prevents them from doing that.

For example, could Tribal Council vote to say, "Well, we recognize that these people all, you know, have headrights handed down from the 1906 Act. But we've suddenly decided, as a matter of policy of the Osage Nation that owns the mineral estate, that we want to allocate it in some different fashion"?

Mr. YARBROUGH. My interpretation of what is about to happen is that we, as shareholders, will maintain our identify, and we'll go on separately, but we'll also be inclusive of the Tribe at the same time. So, we'll actually go ahead and conduct business as we always have.

Mr. CARSON. Maybe I should—maybe Congressman Lucas can answer it or someone. I guess the question is are there institutional protectors from the 1906 Act that says you, for any reason you couldn't—you couldn't feel free to—what institutional protections are there to keep headright ownership basically as it has been for the last near century or altering kind of the voting membership with this.

Chief GRAY. Well, Congressman, there are clearly protected property rights that no activist council would have any control over, you know, that particular process. What has been statutorily set up is what's policy now. And there's nothing that this Council can do, even with the passage of this bill, to change that.

Mr. CARSON. Thank you on all of that.

We have other folks raising their hands on that issue.

But let me—perhaps we can talk afterwards. I'm sure Chairman Pombo wants to keep regular order.

How many members are there of the Osage shareholders that lives here.

Mr. YARBROUGH. Approximately three hundred.

Mr. CARSON. And how many people—we heard earlier that about four thousand people voted in the last election. How many people do you estimate are shareholders of a mineral estate.

Mr. YARBROUGH. I would think most of them voted.

Mr. CARSON. So, you're talking roughly four thousand people or so.

Mr. YARBROUGH. Most of the people that could vote did vote.

Mr. CARSON. So, do you have, from your end, is there a census of the headright owners? I mean is there a roll book of every—where people go to identify who every headright owner is in this.

Mr. YARBROUGH. Well, you understand about the laws of confidentiality, right.

Mr. CARSON. Sure. I'm not asking to see it. My question is is there—the Tribe has a roll that has all headright owners on it, obviously. Otherwise, it couldn't dole out the royalty interests.

Mr. YARBROUGH. Yes. That is one of the jobs of your Indian Affairs. And when people run for office, they have the privilege of maintaining—they don't have the interest amount, but they get to know who the people are.

Mr. CARSON. OK. OK.

Chief GRAY. The Bureau of Indian Affairs—

Mr. CARSON. Why don't you join us at the table to answer any questions.

Chief GRAY. Congressman, the Bureau of Indian Affairs maintains the list of all of the individual shareholders. It is a private, protected list. We, as the Osage Tribal Council, have no access to the list of those individuals or their respective shares. But during—as R.E. was referring to, during Tribal Council elections, we are able to obtain a list of names and addresses for the purposes of the campaign, you know, to conduct our campaigns.

Mr. CARSON. But the Tribe itself, you have no knowledge of any particular headright owners' actual interests?

Chief GRAY. No. No, sir.

Mr. CARSON. Thank you, Chief, for educating me.

The CHAIRMAN. Mr. Carson, I think the more we get into this the more—the worse it gets. This is something that should have been done a long time ago.

Mr. LUCAS. Thank you, Mr. Chairman. And you're exactly right. It should have been done a long time ago. Circumstances of history have brought us to this point. A reflection of probably some good actions and some bad actions. But here we are, and on this day considering a bill that will give the Osages their ability for voting purpose to determine their own membership. I guess my question to the panel would be, even with this piece of legislation, although it be made in through Congress and signed into law by the President, there's a huge responsibility on the Osage people to implement this. The determinations about the voting requirements and set of procedures and have elections to conduct and implement those elections, and the government that will come out of it. So, I

guess my first question to my two younger constituents here, are you ready to rise to the challenge to become personally involved in this process, which hopefully is about to open up to all Osages, ladies?

Ms. MOORE. Well, I'm ready to take action. I believe that it is as well as important for our elders to participate with a headright, who haven't official been able to. It's also important for the younger generation's voice to be heard, too.

Ms. LOOKOUT. Our tribe is very, very strong in our cultural beliefs. And we have our dances, which she mentioned. And everybody participates, and we all come together. And so everybody—all Osages of Indian blood are there, and they participate. And we come together as a Tribe. And this is the only place where it's not—it's unfair. And I'm sure that as many people that comes to our dances and even those that don't participate would want this and are eager to do this. Because this is a part of who we are and part of our culture and what we believe in.

Mr. LUCAS. And I'm going to ask Jessica. In your testimony you said you were a freshman at Oklahoma State.

Ms. MOORE. Uh-huh.

Mr. LUCAS. Do they handle those issues differently than the University of Oklahoma.

Ms. MOORE. For enrollment, it's only required to provide a CDIB card to be Native American.

Ms. LOOKOUT. Each university is different.

Mr. LUCAS. So, let it be noted for the record, Mr. Chairman, as a graduate of Oklahoma State University—a very cooperative environment.

The CHAIRMAN. I just knew that we would get to that eventually.

Mr. LUCAS. When you inherit Wes Watkins' mantle, you've got to fly that orange flag every so often.

Mr. Yarbrough, clearly your goal, so the constituents understand the focus of this bill, is on the membership roll and on the election process, and the mineral estate issues that we've discussed here and are mentioned with that is something for another day.

Mr. YARBROUGH. Yes, sir. It is like I said before.

It's our understanding everything will continue as is. The only difference is that these young people are going to have an opportunity to vote and participate in government.

Mr. LUCAS. Thank you. Once again, Chief, it's been a pleasure to work together on what I think is a very positive piece of legislation.

With that, Mr. Chairman, I give back my time and thank the Chairman for the privilege sitting today.

The CHAIRMAN. Well, thank you. And I want to thank our panel of witnesses here today. This has been, for me, a very informative hearing. I know some of my colleagues here are much more familiar with this issue and have worked with it over the years. I became aware of this when Congressman Lucas brought it to my attention, and when Chief came to Washington and talked to me about the importance of moving forward with this. At that time, we made a commitment to come out to Oklahoma and to hold a hearing and to give people the opportunity to be heard before their Congressmen, before their Congressional Committee. And I've enjoyed

the opportunity to be here. But it has been extremely informative for me, and it's something that I can tell you we will move forward. The Committee will move forward on this. And with Mr. Kildee's help, we will make every effort to see that we can rectify this situation in our Committee and move through the House of Representatives. This is something, I think, is way past due in terms of taking care of this situation.

Again, I will tell the members of the audience, if you've not had an opportunity to testify before the Committee, that we will hold the Committee record open. If anybody has additional comments that they would like to make to appear as a part of the official record on this hearing, if you could submit those within the next 10 days to the House of Representatives, or if you can fax them to Mr. Lucas' office, they can pass them on to the House of Representatives, and they will be included in the record. And that would, I think, more fully fill out the official record that we have today.

Again, I want to thank all of the witnesses for your testimony, Mr. Lucas for allowing us to hold this hearing here, my colleagues from Oklahoma for participating, and my friend, Mr. Kildee, for making the effort to be here and participate in this hearing. I think it was very important to the official record.

If there's no further business before the Committee, then the Committee will stand adjourned.

[Whereupon, the Committee was adjourned.]

