

for the trapdoor. At two minutes before four in the afternoon, his father sprang the trap. The body fell before jerking violently upward. Then a sound of astonishment and horror rippled through the crowd. Despite all the meticulous construction, Nichols was still moving, still trembling with life. “He kicked and jerked around a long time,” Tom later recalled. “It seemed like he would never give up and die.” Finally, his body stopped moving and was cut down from the rope.

Perhaps because he witnessed this—and other executions—or perhaps because he had seen the effect of the ordeal on his father, or perhaps because he feared that the system could doom an innocent man, Tom grew to oppose what was then sometimes called “judicial homicide.” And he came to see the law as a struggle to subdue the violent passions not only in others but also in oneself.

In 1905, when Tom was twenty-four, he enlisted in the Texas Rangers. Created in the nineteenth century as a volunteer citizen militia to fight American Indians on the frontier and, later, Mexicans along the border, the Rangers had evolved into a kind of state police force. American Indians and Mexicans had long despised the Rangers for their brutal, shoot-first methods. But among white Texans they were widely mythologized. As Lyndon B. Johnson later put it, “Every school boy in Texas cuts his eye teeth on stories about the Texas Rangers. I wasn’t any exception.”

Tom’s brother Dudley, equally entranced by the Ranger mystique, entered the force the same year as Tom, and Doc soon joined them. Later, Tom’s brother Coley followed even more closely in their father’s footsteps, becoming the sheriff of Travis County. Doc recalled the simple advice that his father gave him upon becoming a lawman: “Get all the evidence you can, son. Then put yourself in the criminal’s place. Think it out. Plug up those holes, son.”

Like Doc and Dudley, who were each placed in separate Ranger companies, Tom received a meager salary of \$40 per month—“the same as a cowpuncher,” as he put it. Tom joined his company at a

campsite sixty-five miles west of Abilene. Another Ranger had once observed upon arriving in camp, "Here was a scene worthy of the pencil. Men in groups with long beards and moustaches, dressed in every variety of garment, with one exception, the slouched hat, the unmistakable uniform of a Texas Ranger, and a belt of pistols around their waists, were occupied drying their blankets, cleaning and fixing their guns, and some employed cooking at different fires, while others were grooming their horses. A rougher looking set we never saw."

Tom learned to be a lawman by following the example of the most skilled officers. If you observed carefully, and if you weren't too busy liquoring or whoring (which many of the Rangers were), you could learn how to track a horse through the brush—even if, as Tom once found, the thieves had deceptively turned the horseshoes backward. You picked up little tricks: overturning your boots each morning in case a scorpion or some other critter had crept inside; shaking out your blanket for rattlesnakes before lying down at night. You discovered how to avoid quicksand and how to locate streams in otherwise parched land. You understood that it was better to ride a black horse and dress in black like a personification of evil, so as not to be scoped by a gunman in the night.

Tom soon received the orders for one of his first missions: he was to accompany his captain and his sergeant in pursuit of cow rustlers in Kent County, north of Abilene. At one point, Tom and the sergeant paused at a store to get provisions. They tied up their horses and were heading inside when the sergeant asked Tom where his Winchester rifle was. Tom told him that it was in his scabbard, on his horse. The sergeant, a man of explosive temperament, yelled, "You don't never do that!...Go get your Winchester right now and bring it in here, and keep it right with you all the time."



~~~~ ***In back row, from left to right, are Tom's brothers Doc, Dudley, and Coley. In front are Tom's father, his grandfather, and then Tom.***

Credit 43



~~~ *A group of Texas lawmen that includes Tom White (No. 12) and his three brothers, Doc (No. 6), Dudley (No. 7), and Coley (No. 13)*

Credit 44

Tom, chastened, retrieved his rifle, and it was not long before he understood the sergeant's urgency: they were being tracked by the rustlers. They had to dodge being shot several times before they finally arrested the gang.

Tom became increasingly adept at dealing with what he called "rascality": cow rustlers, horse thieves, scalawags, pimps, rumrunners, stagecoach robbers, desperadoes, and other human transgressors. When he was sent with another Ranger, Oscar Roundtree, to clean up the lawless town of Bowie, a pastor wrote to White's captain, saying that he had witnessed "the lawless element completely driven from our town by the two Rangers you sent here."

During his time as a Ranger, Tom investigated several murders. Tom's brother Doc recalled, "We had nothing—not even fingerprints. We had to use mostly witnesses, and they were sometimes hard to

come by." Even more troublesome, some Rangers had no patience for the niceties of the law. One member of Tom's company would seek out the most ruthless bad man in town and then provoke a fight, so he could kill him. Tom, who believed that a lawman could usually "avoid killing if you didn't lose your head," later told a writer that he had heated discussions with this Ranger. It didn't seem right for any man to play judge, jury, and executioner.

In 1908, while Tom was stationed in Weatherford, a town east of Abilene, he met a young woman named Bessie Patterson. She was petite, at least beside him, and she had short brown hair and sincere eyes. Tom, who'd spent much of his life in male company, was taken with her. Where he was a man of stillness, she was outspoken and a whirl of motion. She ordered him around in a way that few dared, but he didn't seem to mind; for once, it was not incumbent upon him to be in command of the world around him or the emotions inside him. His job, however, was ill-suited for marriage. Doc's captain once said, "An officer who hunts desperate criminals has no business having a wife and family."

Before long, Tom was tugged away from her. With N. P. Thomas, a Ranger who was one of his closest friends, he was sent to deal with a plague of rascality in Amarillo, in the Texas Panhandle. A Ranger reported that the city had some of the hardest crooks around and that the sheriff's office had provided no assistance in removing them; what's more, the Ranger noted, "the Sheriff has two sons who live at the whore house."

Thomas had already had several run-ins with the deputy sheriff, and one January morning in 1909 N. P. Thomas was sitting in the county prosecutor's office when the deputy leveled his gun and shot him in the face. Thomas fell forward, blood gushing from his mouth. When the medics arrived, he was still breathing, but they couldn't stop the bleeding and he died in agony.

Many of the men with whom Tom had served in the Rangers went prematurely to their deaths. Tom saw both inexperienced and veteran officers die. He saw irresponsible lawmen die and conscientious ones, too. Roundtree, who became a deputy sheriff, was shot in the head by a rich landowner. The Ranger with whom Tom argued about usurping the law joined a posse of vigilantes and was accidentally shot and killed by one of his own men. Tom's sergeant was shot six times by an assailant, while a bystander was struck twice. As the sergeant lay on the ground, bleeding, he asked for a slip of paper and scribbled on it a message for Ranger headquarters: "I am shot all to pieces. Everything quiet." Somehow, he survived his wounds, but the innocent bystander died. Then there was the time that a new recruit in Tom's company was gunned down while trying to stop an assault. Tom collected the Ranger's body and transported it to the home of his parents, who couldn't fathom why their boy was in a box succoring maggots.

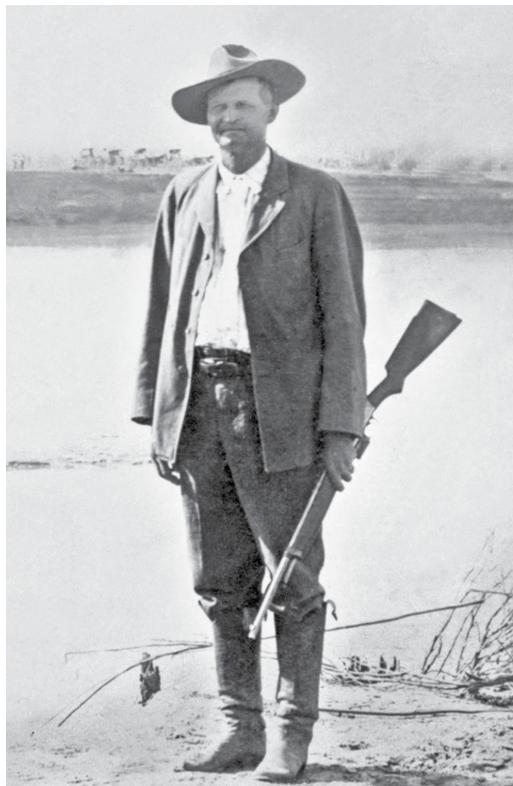
After N. P. Thomas's death, Tom felt a lawlessness within him. A friend of Tom's who wrote a short sketch of his life said, "Tom's emotional struggle was brief but violent. Should he...attempt to avenge [Thomas's] death?" Tom decided to leave the Rangers altogether and marry Bessie. The adjutant general wrote to Tom's captain, saying that Tom had "proved an excellent officer" and that he would "regret to see him quit the service." But his decision was final.

He and Bessie settled in San Antonio, where the first of their two sons was born. Tom became a railroad detective, and the steady wage made it possible to raise a family. Though he still chased bandits on horseback, the work was generally less dangerous; in many cases, it involved unmasking individuals who had filed false claims for reimbursements. Tom found these people cowards and, therefore, more contemptible than the desperadoes who risked their lives to hold up a train.

Tom was a dedicated family man, but like his father he was attracted to the darkness, and in 1917 he took the oath to become a special agent of the Bureau of Investigation. He swore, "I will

support and defend the Constitution of the United States against all enemies....SO HELP ME GOD.”

In July 1918, not long after Tom joined the bureau, his brother Dudley went with another Ranger to arrest a pair of deserters in a remote, wooded area in East Texas known as the Big Thicket. It was during an obliterating drought, and amid the dust and heat Dudley and his partner searched a clapboard house where the two wanted men were believed to be hiding out. The suspects weren’t there, so Dudley and his partner decided to wait on the porch. At three in the morning, the darkness was suddenly ablaze with gunfire. The deserters had ambushed them. Dudley’s partner was shot twice, and as he lay bleeding on the porch, he could see Dudley standing and firing one of his six-shooters. Then Dudley was falling, as if someone had undercut his legs, his massive frame smashing against the porch. His partner later recalled that he “fell, and did not get up again.” A bullet had struck Dudley near the heart.



~~~ **Tom's brother Dudley** Credit 45

Tom was overcome by the news; his brother—who was married and had three children under the age of eight—had seemed invulnerable to Tom. The two deserters were caught and prosecuted for murder, and Tom's father attended each day of the trial until both men were convicted.

After the shooting, Dudley's corpse was transported home. A Ranger report noted clinically, “One wagon sheet, one bed sheet, one pillow, used in shipping Ranger White’s body.” Tom and his family retrieved Dudley’s possessions, including the soft-nosed, steel-jacketed bullet that had killed him. He was buried in a cemetery near the ranch where he was born. As the Bible said, “For dust you are and to dust you will return.” An obelisk by his grave read,

**JOHN DUDLEY WHITE, SR**  
HDQTRS CO TEXAS RANGERS  
KILLED IN LINE OF DUTY...  
JULY 12, 1918

Two weeks after the funeral, a cool rain finally began to fall, washing over the prairie. By then, Tom had returned to the Bureau of Investigation.

## 14    ~~~~    DYING WORDS

In September 1925, as White tried to determine what secrets William Hale and his nephews Ernest and Bryan were hiding, he wondered if one person had previously uncovered them: Bill Smith, Mollie Burkhart's brother-in-law. It was Smith who had first suspected that Lizzie was poisoned, and he who had investigated whether there was a larger conspiracy connected to the family's oil wealth. If Smith was killed because of what he had learned, that information might be the key to unlocking the inside world.

After the explosion destroyed the Smiths' house, agents asked the nurse who had been on duty when Bill was being treated in the hospital whether he had mentioned anything about the murders. She said that Bill had often muttered names in his feverish sleep, but she had been unable to make them out. Sometimes, when he woke up, he seemed worried that he might have said something in his sleep—something that he shouldn't have. Shortly before Bill died, the nurse recalled, he had met with his doctors, James and David Shoun, and with his lawyer. The doctors had asked the nurse to leave the room. It was clear that they didn't want her to overhear their conversation with Bill, and she suspected that he had given some sort of statement indicating who was responsible for blowing up his house.

White, already suspicious of the Shouns owing to the missing bullet in the Anna Brown case, began to question each person who had been in the room with Bill. Later, federal prosecutors also questioned these men. According to a transcript of these interrogations, David Shoun acknowledged that he and his brother had summoned the lawyer, believing that Bill might name his killers,

but nothing came of it. "If Bill Smith had an idea who blew him up, he never said," the doctor recalled.

One of the prosecutors pressed him about why it had been so important for the nurse to leave the room. Shoun explained that nurses "often leave when the doctors come in."

"If she says that you asked her to step out, she lies?"

"No, sir. If she says that, I did." Shoun said he would swear a dozen times that Bill never identified his killers. Pointing to his hat, he added, "Bill Smith gave me that hat, and he is my friend."

James Shoun, David's brother, was equally adamant, telling the prosecutor, "He never did say who blew him up."

"He must have talked about that."

"He never did say who blew him up."

"Did he talk about who blew him up?"

"He didn't talk about who blew him up."

When Bill Smith's lawyer was questioned, he, too, insisted that he had no idea who was responsible for blowing up the Smiths' house. "Gentlemen, it is a mystery to me," he said. But as he was being grilled, he revealed that in the hospital Bill Smith had said, "You know, I only had two enemies in the world," and that those enemies were William K. Hale, the King of the Osage Hills, and his nephew Ernest Burkhart.

The investigators asked James Shoun about this, and eventually he divulged the truth: "I would hate to say positively that he said...that Bill Hale blew him up, but he did say Bill Hale was his only enemy."

"What did he say about Ernest Burkhart?" a prosecutor asked.

"He said they were the only two enemies he knew of."

The Shouns were close to Hale and the Burkarts, having been their families' physicians, and not long after the conversation at the hospital one of the Shoun brothers informed the nurse that Bryan Burkhart was ill. She was asked to visit Bryan at his house, and she agreed to do so. While she was there, Hale showed up. He conferred privately with Bryan, then approached the nurse. After some small

talk, he asked her if Bill Smith had named his killers before he died. The nurse told him, “If he did I would not be telling it.” Hale seemed to be trying to ascertain whether she knew anything and, perhaps, to be warning her not to divulge a word if she did.

---

As White and agents dug deeper into the hospital statement, they began to suspect that the doctors had orchestrated the private meeting with Bill Smith not for his testimony but, rather, for another, ulterior motive. During the meeting, James Shoun was named the administrator of the estate of Bill Smith’s murdered wife, Rita, which allowed him to execute her will. Such a position was coveted by whites, for it paid unconscionably high fees and provided ample opportunities for graft.

After White’s team uncovered this scheme, one of the prosecutors questioned David Shoun about it. “You understand in your study of medicine the requisite of a dying declaration,” he said. “You weren’t undertaking to get anything like that?”

“No,” Shoun replied meekly.

It was now clear why the doctors had summoned not the sheriff or a prosecutor but Bill Smith’s personal attorney. They had asked him to bring the paperwork for Bill to sign before he died.

Another prosecutor asked David Shoun if Bill was even lucid enough to make such a decision. “Did he know what he was signing?”

“I suppose he did; he was supposed to be rational.”

“You are a doctor, was he rational?”

“He was rational.”

“And he made arrangements for your brother to be appointed for his wife’s estate?”

“Yes, sir.” After further interrogation, he conceded, “A very wealthy estate.”

The more White investigated the flow of oil money from Osage headrights, the more he found layer upon layer of corruption.

Although some white guardians and administrators tried to act in the best interests of the tribe, countless others used the system to swindle the very people they were ostensibly protecting. Many guardians would purchase, for their wards, goods from their own stores or inventories at inflated prices. (One guardian bought a car for \$250 and then resold it to his ward for \$1,250.) Or guardians would direct all of their wards' business to certain stores and banks in return for kickbacks. Or guardians would claim to be buying homes and land for their wards while really buying these for themselves. Or guardians would outright steal. One government study estimated that before 1925 guardians had pilfered at least \$8 million directly from the restricted accounts of their Osage wards. "The blackest chapter in the history of this State will be the Indian guardianship over these estates," an Osage leader said, adding, "There has been millions—not thousands—but millions of dollars of many of the Osages dissipated and spent by the guardians themselves."

This so-called Indian business, as White discovered, was an elaborate criminal operation, in which various sectors of society were complicit. The crooked guardians and administrators of Osage estates were typically among the most prominent white citizens: businessmen and ranchers and lawyers and politicians. So were the lawmen and prosecutors and judges who facilitated and concealed the swindling (and, sometimes, acted as guardians and administrators themselves). In 1924, the Indian Rights Association, which defended the interests of indigenous communities, conducted an investigation into what it described as "an orgy of graft and exploitation." The group documented how rich Indians in Oklahoma were being "shamelessly and openly robbed in a scientific and ruthless manner" and how guardianships were "the plums to be distributed to the faithful friends of the judges as a reward for their support at the polls." Judges were known to say to citizens, "You vote for me, and I will see that you get a good guardianship." A white woman married to an Osage man described to a reporter how the locals would plot: "A group of traders and lawyers sprung up who

selected certain Indians as their prey. They owned all the officials....These men had an understanding with each other. They cold-bloodedly said, 'You take So-and-So, So-and-So and So-and-So and I'll take these.' They selected Indians who had full headrights and large farms."



~~~ *The Osage chief Bacon Rind protested that "everybody wants to get in here and get some of this money."* Credit 46

Some of the schemes were beyond depraved. The Indian Rights Association detailed the case of a widow whose guardian had absconded with most of her possessions. Then the guardian falsely informed the woman, who had moved from Osage County, that she had no more money to draw on, leaving her to raise her two young children in poverty. "For her and her two small children, there was not a bed nor a chair nor food in the house," the investigator said. When the widow's baby got sick, the guardian still refused to turn

over any of her money, though she pleaded for it. "Without proper food and medical care, the baby died," the investigator said.

The Osage were aware of such schemes but had no means to stop them. After the widow lost her baby, evidence of the fraud was brought before a county judge, only to be ignored. "There is no hope of justice so long as these conditions are permitted to remain," the investigator concluded. "The human cry of this...woman is a call to America." An Osage, speaking to a reporter about the guardians, stated, "Your money draws 'em and you're absolutely helpless. They have all the law and all the machinery on their side. Tell everybody, when you write your story, that they're scalping our souls out here."

15 ~~~~ THE HIDDEN FACE

One day that September, the undercover operative who was pretending to be an insurance salesman stopped at a filling station in Fairfax and struck up a conversation with a woman working there. When the operative told her that he was looking to buy a house in the vicinity, she mentioned that William Hale “controlled everything” in these parts. She said that she’d purchased her own home from Hale, which was on the edge of his pasture. One night, she recalled, thousands of acres of Hale’s land had been set on fire. Nothing was left behind but ashes. Most people didn’t know who had started the blaze, but she did: Hale’s workers, on his orders, had torched the land for the insurance money—\$30,000 in all.

White tried to learn more about another suspicious matter: How had Hale become the beneficiary of Henry Roan’s \$25,000 life-insurance policy? After Roan turned up with a bullet in the back of his head, in 1923, Hale had the most obvious motive. Yet the sheriff had never investigated Hale, nor had other local lawmen—an oversight that no longer seemed incidental.

White tracked down the insurance salesman who had originally sold Roan the policy in 1921. Hale had always insisted that Roan, one of his closest friends, had made him the beneficiary because he had lent Roan a lot of money over the years. But the salesman told a different story.

As the salesman recalled it, Hale had independently pushed for the policy, saying, “Hells bells, that’s just like spearing fish in a keg.” Hale had promised to pay an extra premium on such a policy, and the salesman had responded, “Well, we might write him for \$10,000.”

"No, I want it for \$25,000," Hale said.

The salesman had told Hale that because he wasn't Roan's relative, he could become his beneficiary only if he were his creditor. Hale had said, "Well, he owes me a lot of money, he owes me \$10,000 or \$12,000."

White found it hard to believe that this debt was real. If Roan had really owed Hale that amount of money, then all Hale would have had to do was present proof of the debt to Roan's wealthy estate, which would have reimbursed him. Hale had no need to get an insurance policy on his friend's life—a policy that wouldn't have a significant return unless Roan, who was then in his late thirties, suddenly died.

The salesman, who was close to Hale, admitted that he had no proof of the debt and that he had simply desired his commission. He was yet another person bound up in the "Indian business." Roan seemed to have been unaware of these machinations; he trusted that Hale, his supposedly closest friend, was helping him. But there remained one impediment to Hale's scheme. A doctor had to examine Roan—a heavy drinker who had once wrecked his car while intoxicated—and deem him a safe risk for the insurance company. Though one physician said that nobody would approve that "drunken Indian," Hale shopped for doctors until he found a man in Pawhuska willing to recommend Roan; one of the seemingly ubiquitous Shoun brothers, James, also recommended Roan.

White discovered that the insurance company had rejected the first application. A company representative later noted dryly of Hale's effort to secure a \$25,000 policy, "I don't think it would seem regular." Undeterred, Hale approached a second insurance company. The application asked if Roan had previously been turned down by a competitor. The answer "no" was filled in. An insurance agent who reviewed the application later told authorities, "I knew the questions in it had been answered falsely."

This time, Hale had produced a creditor's note to prove that he was owed money by Roan. The debt that Hale had originally claimed —\$10,000 or \$12,000—had grown inexplicably to \$25,000, the exact

amount of the insurance policy. The creditor's note was purportedly signed by Roan and was dated "Jany, 1921"; this was important, because it indicated that the note predated efforts to obtain the insurance, giving legitimacy to Hale's claim.

Handwriting and document analysis were emerging tools in the field of criminal investigation. Although many people greeted the new forensic sciences with reverence, attributing to them a godlike power, they were often susceptible to human error. In 1894, the French criminologist Bertillon had helped to wrongfully convict Alfred Dreyfus of treason, having presented a wildly incorrect handwriting analysis. But when applied carefully and discreetly, document and handwriting analysis could be helpful. In the infamous Nathan Leopold and Richard Loeb murder case, in 1924, investigators had correctly detected similarities between Leopold's typed school notes and the typed ransom note.

Agents working on Roan's murder case later showed the creditor's note to an analyst at the Treasury Department, who was known as the "Examiner of Questioned Documents." He detected that the date initially typed on the document had said "June," and that someone had then carefully rubbed out the *u* and the *e*. "Photographs taken by means of slanting light show clearly the roughening and raising of the fibres of the paper about the date due to mechanical erasure," the examiner wrote. He determined that somebody had replaced the *u* with an *a*, and the *e* with a *y* so that the date read "Jany."

White suspected that Hale had ginned up the document while trying to obtain the insurance policy, and altered it after realizing that he had blundered on the date. Later, a federal official questioned the man who Hale claimed had typed up the note. He denied ever having seen the document. Asked if Hale was lying, he said, "Absolutely."

The second insurance company approved the policy after Hale took Roan to the Pawhuska doctor again for the required medical examination. The doctor recalled asking Hale, "Bill, what are you going to do, kill this Indian?"

Hale, laughing, said, "Hell, yes."

After Hale served as a pallbearer at Roan's funeral, White learned, local lawmen did more than ignore Hale as a suspect: they tried to build a case against Roy Bunch, the man who'd been having an affair with Roan's wife. White and his agents spoke to Bunch, who maintained his innocence and told a curious story about Hale. After Roan's murder, Hale had approached Bunch and said, "If I were you, I'd get out of town."

"Why should I run? I didn't do it."

"People think you did," Hale said.

He offered Bunch money to help him flee. Afterward, Bunch spoke to a friend, who persuaded him not to take off, because it would only make him look guilty. "If you run, they'll hang it on you for sure," his friend said.

White and his men thoroughly investigated Bunch and ruled him out as a suspect; as one agent noted, the "notorious relations between Bunch and Roan's wife were calculated to furnish a good screen" for the real murderers. And the person who seemed most intent on framing Bunch was the King of the Osage Hills. After Roan's murder, Hale had visited Roan's widow several times to try to get her to sign various papers regarding claims against Roan's estate. Once, Hale had left a bottle of whiskey for her as a gift. But she refused to taste the moonshine: she feared that it was poisoned.

Though White had gathered circumstantial evidence implicating Hale in the murder of Roan, there were still huge holes in the case. There was no proof—no fingerprints, no credible eyewitnesses—that Hale had shot Roan or that he had ordered one of his nephews or another henchman to do so. And while the suspicious life-insurance policy seemed to tie Hale to Roan's murder, it did not provide a motive for the other Osage killings.

Yet, as White studied the Roan case further, one detail stood out. Before Hale obtained the life-insurance policy on Roan, he had attempted to purchase Roan's headright—his share in the tribe's mineral trust, which was more precious than any cache of diamonds or gold. Hale knew that the law prevented anyone from buying or selling a headright, but he'd been confident that lobbying pressure from influential whites would soon eliminate this prohibition. Indeed, Hale once said, "I, like many other good men, believed it would be only a short time until Congress would pass a law permitting every educated Indian who had his certificate of competency to sell or convey his or her mineral rights to whom they wished." Yet the law had not been changed, and White suspected that this setback had prompted Hale to turn to the insurance murder plot.

There was one legal way, though, that someone could still obtain a headright: inheritance. As White examined probate records for many of the murder victims, it was evident that with each successive death more and more headrights were being directed into the hands of one person—Mollie Burkhart. And it just so happened that she was married to Hale's nephew Ernest, a man who, as an agent wrote in a report, "is absolutely controlled by Hale." Kelsie Morrison, the bootlegger and bureau informant, said to agents that both Ernest and Bryan Burkhart did exactly what their uncle told them to do. Morrison added that Hale was "capable of anything."

White studied the pattern of deaths in Mollie's family. Even the chronology no longer seemed haphazard but was part of a ruthless plan. Anna Brown, divorced and without children, had bequeathed nearly all her wealth to her mother, Lizzie. By killing Anna first, the mastermind made sure that her headright would not be divided between multiple heirs. Because Lizzie had willed most of her headright to her surviving daughters, Mollie and Rita, she became the next logical target. Then came Rita and her husband, Bill Smith. White realized that the unusual method of the final killing—a bombing—had a vicious logic. The wills of Rita and Bill stipulated that if they died simultaneously, much of Rita's headright would go to her surviving sister, Mollie. Here, the mastermind had made one

miscalculation. Because Bill unexpectedly outlived Rita by a few days, he had inherited much of her wealth, and upon his death the money went to one of his relatives. Still, the bulk of the family's headrights had been funneled to Mollie Burkhart, whose wealth was controlled by Ernest. And Hale, White was convinced, had secretly forged an indirect channel to this fortune through his subservient nephew. As White later reported to Hoover, "MOLLIE appears to have been the first means to draw HALE, through the BURKHARTS, the assets of the entire family."

White couldn't determine whether Ernest's marriage to Mollie—four years before Anna's murder—had been conceived from the outset as part of the plot, or if Hale had prevailed upon his nephew to betray her after they married. In either case, the plan was so brazen, so sinister, that it was hard to fathom. It demanded that Ernest share a bed with Mollie, and raise children with her, all while plotting and scheming against her family. As Shakespeare wrote in *Julius Caesar*:

*Where wilt thou find a cavern dark enough
To mask thy monstrous visage? Seek none, conspiracy:
Hide it in smiles and affability.*



.... ***Ernest and Mollie Burkhart*** Credit 47

16 ~~~ FOR THE BETTERMENT OF THE BUREAU

White and his men felt a growing sense of progress. A Justice Department prosecutor sent Hoover a note, saying that in the few months since White had assumed command of the investigation, “many new angles of these cases were successfully developed” and a “new and enthusiastic spirit seemed to pervade the hearts of all of us.”

Still, White faced the same problem with the investigation of Mollie Burkhart’s murdered family that he did with his inquiry into Roan’s death. There was no physical evidence or witnesses to prove that Hale had carried out or ordered any of the killings. And without an airtight case White knew that he’d never be able to bring down this man who hid behind layers of respectability—who called himself the Reverend—and who used a network of patronage to influence the sheriff’s office, prosecutors, judges, and some of the highest state officials.

In a stark report, agents noted that Scott Mathis, the Big Hill Trading Company owner and a guardian of Anna Brown and Lizzie, was “a crook and evidently in the power of Hale”; that an associate of Mathis’s served as a “spy for Bill Hale and the Big Hill Trading Company, and does all the framing for them in their crooked deals in skinning the Indians”; that the chief of police in Ponca City had “taken money from Bill Hale”; that the chief of police in Fairfax “will do nothing against Hale whatsoever”; that a local banker and guardian “will not talk against the Hale faction, for the reason that Hale has too much on him”; that the mayor of Fairfax, “an arch crook,” was Hale’s close friend; that a longtime county prosecutor

was part of Hale's political machine and was "no good" and "crooked"; and that even a federal official with the Office of Indian Affairs was "in the power of Bill Hale and will do what Hale says."

White realized that his struggle to obtain justice was just beginning. As a bureau report would put it, Hale "dominated local politics and seemingly could not be punished." Hoover had earlier praised White, saying that because of his handling of the case "conditions have been peaceful and I have had no complaint or criticism whatsoever, and this has been a great relief to me." Yet Hoover—that "slender bundle of high-charged electric wire," as one reporter described him—was growing increasingly impatient.

Hoover wanted the new investigation to be a showcase for his bureau, which he had continued to restructure. To counter the sordid image created by Burns and the old school of venal detectives, Hoover adopted the approach of Progressive thinkers who advocated for ruthlessly efficient systems of management. These systems were modeled on the theories of Frederick Winslow Taylor, an industrial engineer, who argued that companies should be run "scientifically," with each worker's task minutely analyzed and quantified. Applying these methods to government, Progressives sought to end the tradition of crooked party bosses packing government agencies, including law enforcement, with patrons and hacks. Instead, a new class of technocratic civil servants would manage burgeoning bureaucracies, in the manner of Herbert Hoover—"the Great Engineer"—who had become a hero for administering humanitarian relief efforts so expeditiously during World War I.

As the historian Richard Gid Powers has noted, J. Edgar Hoover found in Progressivism an approach that reflected his own obsession with organization and social control. What's more, here was a way for Hoover, a deskbound functionary, to cast himself as a dashing figure—a crusader for the modern scientific age. The fact that he didn't fire a gun only burnished his image. Reporters noted that the "days of 'old sleuth' are over" and that Hoover had "scrapped the old

‘gum shoe, dark lantern and false moustache’ traditions of the Bureau of Investigation and substituted business methods of procedure.” One article said, “He plays golf. Whoever could picture Old Sleuth doing that?”

Yet an ugliness often lurked beneath the reformist zeal of Progressivism. Many Progressives—who tended to be middle-class white Protestants—held deep prejudices against immigrants and blacks and were so convinced of their own virtuous authority that they disdained democratic procedures. This part of Progressivism mirrored Hoover’s darkest impulses.

As Hoover radically streamlined the bureau, eliminating overlapping divisions and centralizing authority, White, like other special agents in charge, was given greater command over his men in the field, but he also became more accountable to Hoover for anything the agents did, good or bad. White had to constantly fill out Efficiency Rating sheets, grading agents, on a scale of 0 to 100, in such categories as “knowledge,” “judgment,” “personal appearance,” “paper work,” and “loyalty.” The average score became an agent’s overall grade. After White told Hoover that he had occasionally given an agent a 100 rating, Hoover responded sharply, writing, “I regret that I am unable to bring myself to believe that any agent in the jurisdiction of the Bureau is entitled to a perfect or 100% rating.”

Hoover, who believed that his men should conquer their deficiencies the way he had conquered his childhood stutter, purged anyone who failed to meet his exacting standards. “I have caused the removal from the service of a considerable number of employees,” he informed White and other special agents. “Some have been lacking in educational ability and others have been lacking in moral stamina.” Hoover often repeated the maxim “You either improve or deteriorate.”

Though Hoover conceded that some might deem him a “fanatic,” he reacted with fury to any violations of the rules. In the spring of 1925, when White was still based in Houston, Hoover expressed outrage to him that several agents in the San Francisco field office were drinking liquor. He immediately fired these agents and ordered

White—who, unlike his brother Doc and many of the other Cowboys, wasn’t much of a drinker—to inform all of his personnel that they would meet a similar fate if caught using intoxicants. He told White, “I believe that when a man becomes a part of the forces of this Bureau he must so conduct himself as to remove the slightest possibility of causing criticism or attack upon the Bureau.”

The new policies, which were collected into a thick manual, the bible of Hoover’s bureau, went beyond codes of conduct. They dictated how agents gathered and processed information. In the past, agents had filed reports by phone or telegram, or by briefing a superior in person. As a result, critical information, including entire case files, was often lost.

Before joining the Justice Department, Hoover had been a clerk at the Library of Congress—“I’m sure he would be the Chief Librarian if he’d stayed with us,” a co-worker said—and Hoover had mastered how to classify reams of data using its Dewey decimal-like system. Hoover adopted a similar model, with its classifications and numbered subdivisions, to organize the bureau’s Central Files and General Indices. (Hoover’s “Personal File,” which included information that could be used to blackmail politicians, would be stored separately, in his secretary’s office.) Agents were now expected to standardize the way they filed their case reports, on single sheets of paper. This cut down not only on paperwork—another statistical measurement of efficiency—but also on the time it took for a prosecutor to assess whether a case should be pursued.



~~~ **Tom White and Hoover** Credit 48

White himself could be a demanding superior. An agent who worked under him in Oklahoma recalled that each of his men was "supposed to know his job and do it." Another man who later worked under White said he could be "honest till it hurt." Yet White was more forgiving of frailty than Hoover was, and he often tried to shield his men from the boss man's anger. When Hoover became

inflamed after one of White's agents failed to use the one-page format in a report on the Osage murder cases, White told Hoover, "I feel that I, myself, am altogether to blame for I looked over this report and gave it my approval."

Under Hoover, agents were now seen as interchangeable cogs, like employees in a large corporation. This was a major departure from traditional policing, where lawmen were typically products of their own communities. The change helped insulate agents from local corruption and created a truly national force, yet it also ignored regional difference and had the dehumanizing effect of constantly uprooting employees. Speaking only "with the betterment of the service in mind," White wrote to Hoover that he believed an agent who was familiar with a region and its people was more effective. He noted that one of his agents who had gone undercover as a Texas cattleman in the Osage case was ideally suited to working on the frontier—"but put him in Chicago, New York or Boston and he is almost worthless." Hoover was unmoved. As one of his yes-men wrote in a memo, "I do not agree with Mr. White at all on this matter. An Agent who is only acquainted with the characteristics of inhabitants of one section of the country had better get into some other line of work."

At a makeshift training school in New York, agents were indoctrinated in the new regulations and methods. (Hoover later turned the program into a full-fledged academy at Quantico, Virginia.) Agents were increasingly trained in what Hoover hailed as "scientific policing," such as fingerprint and ballistics techniques. And they were taught formal rules of evidence gathering, in order to avoid cases being dropped or stalled, as had happened with the first Osage investigation.

Some agents, especially older ones, despised Hoover and his edicts. One veteran agent advised new recruits, "The first thing you've got to do is unlearn everything they taught you at the Seat of Government. The second is get rid of those damn manuals." In 1929, an agent resigned with the complaint that Hoover's initiatives were "directed against the personnel rather than against the criminal."

White, too, sometimes chafed at Hoover's rules and whims. But he clearly relished being part of the bureau, being swept up in events greater than himself. He tried to neatly type up his reports and touted the virtues of scientific policing. Later, he would replace his cowboy hat with a fedora and, like Hoover, take up golf, putting the ball across the immaculate greens, where the new American men of money and power and leisure gathered. White would become almost indistinguishable from one of Hoover's college boys.

## **17    THE QUICK-DRAW ARTIST, THE YEGG, AND THE SOUP MAN**

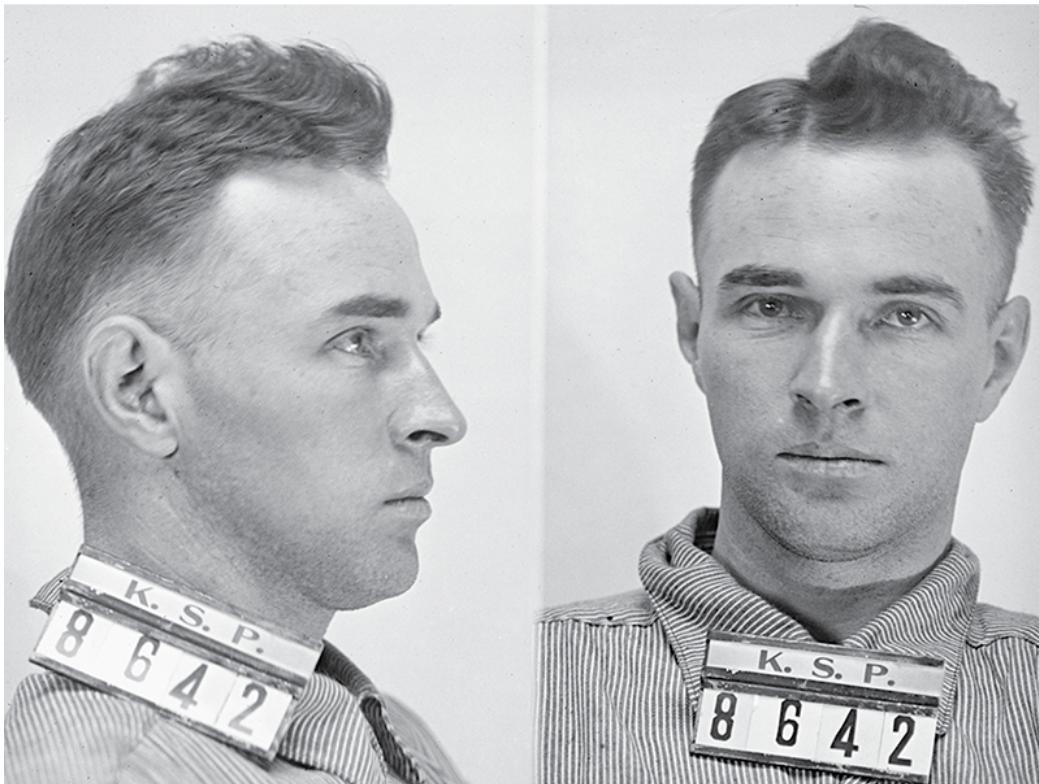
During the fall of 1925, White tried to reassure Hoover that he'd gather enough evidence to put away Hale and his accomplices. White sent Hoover a memo reporting that an undercover operative was on Hale's ranch that very moment, spying. White was feeling pressure not just from Hoover. In the short time that White had been on the case, he had seen the lights burning each night around the homes of the Osage, and seen that members of the community wouldn't let their children go into town alone, and seen more and more residents selling their homes and moving to distant states or even other countries like Mexico and Canada. (Later, one Osage called it a "diaspora.") The desperation of the Osage was unmistakable, as was their skepticism toward the investigation. What had the U.S. government done for them? Why did they, unlike other Americans, have to use their own money to fund a Justice Department investigation? Why had nobody been arrested? An Osage chief said, "I made peace with the white man and lay down my arms never to take them up again and now I and my fellow tribesmen must suffer."

White had come to understand that prejudiced and corrupt white citizens would not implicate one of their own in the killing of American Indians, and so he decided to change his strategy. He would try to find a source, instead, among the most disreputable, dangerous group of Oklahomans: the outlaws of the Osage Hills. Reports from agents and informants like Morrison suggested that several of these desperadoes had knowledge about the murders. These men might not be any less racist. But because some of them had recently been arrested, or convicted of crimes, White would at

least hold some leverage over them. The name of one outlaw, in particular, kept coming up: Dick Gregg, a twenty-three-year-old stickup man who used to run with the Al Spencer Gang and who was now in a Kansas penitentiary serving a ten-year sentence for robbery.

Gregg had once told Agent Burger that he knew something about the murders, though he remained coy, insisting that he couldn't betray a confidence. In a report, Agent Burger noted in frustration, "Gregg is 100 percent criminal and will tell as little as he can." Comstock, the attorney and guardian, knew Gregg's father well and provided legal counsel for the family. Hoover still didn't trust Comstock, but it was Comstock who used his relationship with Gregg's father to help persuade the young outlaw to cooperate with the bureau.

Eventually, White met with Gregg himself. White liked to take mental notes about the criminals he encountered, in order to fix them in his memory—a skill honed from his time on the frontier when he could not rely on mug shots or fingerprints. Decades later, when White was asked to describe Gregg, he wrote with remarkable precision: "A very small man, I should say 5'6" and weighed 125 lbs, fair complexion, blue eyes and light brown hair. A good looking youngster." Gregg's pretty looks were deceiving, according to a prosecutor, who said that he was "a cold cruel calculating type of criminal" who "would not hesitate to commit murder." Still, in White's view, Gregg belonged to that category of outlaw who was not inherently bad and who might even have "gone places" with proper training.



.... **Dick Gregg had been a member of the Al Spencer Gang.** Credit 49

Though Gregg was known for his nerve as a stickup man, he was reluctant to cross Hale. If word got out, Gregg said, "my life would not be worth a damn." But, hoping to shave time off his robbery sentence, he agreed to divulge to White and other agents what he knew. Sometime in the summer of 1922, he recalled, the outlaw Al Spencer told him that Hale wanted to meet with the gang, and so Spencer, Gregg, and several associates headed to one of Hale's pastures near Fairfax. Hale rode up fiercely on his horse, emerging from the tall prairie grasses. The group convened by the edge of a creek and shared some whiskey. Then Hale asked Spencer to step aside with him, and the two went off to talk. After they returned and the meeting broke up, Spencer relayed their conversation.

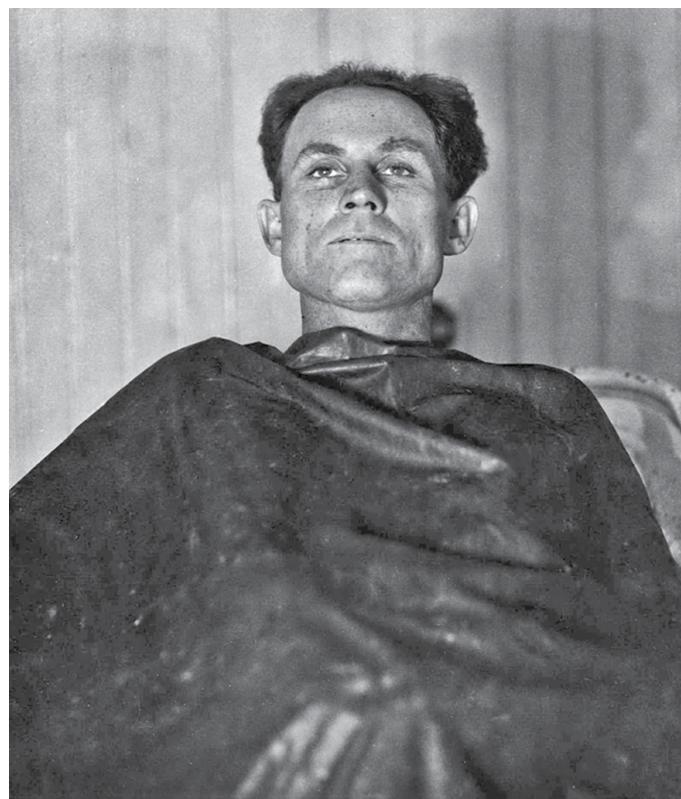
Hale told Spencer that he'd pay him and his gang at least \$2,000 to bump off a couple—an old man and his blanket, meaning an Indian woman. Spencer asked Hale whom he wanted dead. "Bill Smith and his wife," he said. Spencer told Hale that he might be

cold-blooded but he wouldn't kill a woman for silver. As he put it, "That's not my style." Hale said he hoped that Gregg, at least, would go through with the plan. But Gregg agreed with Spencer.

White thought that Gregg was being "on the level" and that his refusal to kill for hire showed him to be "an outlaw with some honor." But though Gregg's testimony offered the clearest indication yet that Hale had ordered the murders, it was of limited legal value. After all, the statement was coming from a crook seeking to shorten his sentence, and Spencer, the one person who could corroborate Gregg's testimony, had since been gunned down by a posse of lawmen. (The *Pawhuska Daily Capital* had reported: WITH \$10,000 BONDS IN ONE HAND AND WINCHESTER CLUTCHED IN THE OTHER, FAMOUS BANDIT DIES IN HIS BOOTS WHILE HILLS WHICH GAVE HIM SHELTER IN LIFE ARE HIS SEPULCHER IN DEATH.)

During one of his interrogations, Gregg said that agents should find Curley Johnson, an outlaw who ran with the stickup man Blackie Thompson. "Johnson knows all about the Smith blow up and will squeal if made to do so," Gregg promised. But Johnson, it turned out, was also rotting underground. Less than a year earlier, he'd died suddenly—word was of poisoned alcohol.

White's desperate search for a witness soon led him to Henry Grammer, the rodeo star and gunslinging bootlegger who, every year or so, seemed to draw down on another man because of a dispute. (HENRY GRAMMER SHOOTS AGAIN, one headline put it.) Though Grammer and Hale generally moved in different circles, White established that they'd known each other for years, from the time when Hale had first appeared in Osage territory, at the turn of the century. In a rodeo contest in 1909, they'd competed with the Osage Cowboys against the Cherokee Cowboys. CHEROKEES NO MATCH FOR THE OSAGE ROPERS, declared the *Muskogee Times-Democrat*. By 1925, Hale had shed his past, but there remained a faded photograph from the contest; it showed Hale and Grammer sitting proudly on their horses, holding up coiled ropes.



~~~ *A photograph of Al Spencer, after he was shot dead on September 15, 1923.* Credit 50



.... **Hale (fourth from left) and Grammer (third from left) competing in a roping contest in 1909** Credit 51

Just before the Smith house blew up, Hale had told friends that he was heading out of town to attend the Fat Stock Show in Fort Worth, Texas. White looked into Hale's alibi and was told that Grammer had gone with him. A witness had overheard Hale talking to Grammer before the murders, murmuring something about being ready for "that Indian deal."

Like the other potential witnesses against Hale, however, Grammer was dead. On June 14, 1923, three months after the Smiths' house was demolished, Grammer had been killed when his Cadillac spun out of control and flipped over. The legendary quick-draw artist had bled out on an empty country road.

Finally, a yegg—a safecracker—gave White and his team the name of another witness to the bombing plot: Asa Kirby, the gold-toothed outlaw who had been an associate of Grammer's. The yegg said that Kirby was the "soup man"—the expert in explosives—who had

designed the bomb. But it turned out that Kirby couldn't testify, either. A few weeks after Grammer's fatal car crash, he'd broken into a store in the middle of the night in an attempt to steal a stash of diamonds, only to find that the shopkeeper had been tipped off beforehand and was lying in wait with his 12-gauge shotgun. In an instant, Kirby was blasted into the world beyond. The person who had tipped off the shopkeeper about the robbery, White was hardly surprised to learn, was William K. Hale.

By foiling the heist, Hale had reinforced his reputation for upholding law and order. But another outlaw told White that Hale had actually set up the robbery—that he'd told Kirby about the diamonds and suggested the ideal time to break in. It was, evidently, a plot within a plot, and White suddenly became suspicious of the litany of dead witnesses. He inquired about Grammer's car accident and was told by people who knew him that they believed his Cadillac's steering wheel and brakes had been tampered with. Curley Johnson's widow, meanwhile, was sure that her husband had been murdered—intentionally poisoned by Hale and his henchmen. And when White learned about a potential witness in the Roan murder case, he discovered that this person had been bludgeoned to death. Anyone who could implicate Hale, it seemed, was being eliminated. The yegg said that Hale was "taking care of too many people," adding, "I might be taken care of myself."

Having failed to locate any living witnesses, White found himself stymied, and Hale seemed aware that agents were onto him. "Hale knows everything," the informant Morrison had told agents, and there were signs that Morrison might be playing his own duplicitous game. Morrison, agents learned, had told a friend that he had all the dope on the murders and had saved Hale's "damned neck till now."



.... **William Hale** Credit 52

Hale had begun spreading even more patronage to solidify his power. In a report, Agent Wren wrote that Hale was “making all the propaganda he can to favor himself by giving presents, suits of clothes, as well as going on notes”—providing loans—“for different people.” Hale was even “giving ponies away to young boys.”

One of the undercover operatives who was playing a Texas cattleman had slowly become close with Hale. They shared stories about the old days cowboying, and the operative accompanied Hale as he inspected his herds of cattle. The operative reported that Hale seemed to be mocking investigators. Hale boasted to him, “I’m too slick and keen to catch cold.”

White would see Hale on the streets of Fairfax, with his bow tie on and his chin up—the incarnation of what White and his brothers, and their father before them, had spent their lives chasing. He carried himself, White thought, “like he owned the world.”

Sometimes, as the strain on White intensified, as each promising lead dead-ended, he would take his rifle and disappear into the countryside. Spotting a duck or some other flying prey, he would take aim and fire until the air was laced with smoke and blood drained into the soil.

18 ~~~ THE STATE OF THE GAME

Out of the blue, White received a tip. In late October 1925, he was meeting with the governor of Oklahoma, discreetly discussing the case. Afterward, an aide to the governor told White, “We’ve been getting information from a prisoner at McAlester”—the state penitentiary—“who claims to know a great deal about the Osage murders. His name is Burt Lawson. Might be a good idea to talk to him.”

Desperate for a new lead, White and Agent Frank Smith rushed over to McAlester. They didn’t know much about Lawson, other than that he was from Osage County and that he had had several brushes with the law. In 1922, he had been charged with murdering a fisherman but was acquitted after claiming that the fisherman had first come at him with a knife. Less than three years later, Lawson was convicted of second-degree burglary and sentenced to seven years.

White liked to interview a subject in a place that was unfamiliar to the person in order to unsettle him, and so he had Lawson taken to a room off the warden’s office. White studied the man who appeared before him: short, portly, and middle-aged, with ghostly white long hair. Lawson kept referring to White and Smith as the “hot Feds.”

White said to him, “We understand from the governor’s office you know something about the Osage murders.”

“I do,” Lawson said, adding, “I want to make a clean breast of it.”

In a series of interviews, Lawson explained that in 1918 he began working as a ranch hand for Bill Smith, and that he grew to know Hale and his nephews Ernest and Bryan Burkhardt. In a signed

statement, Lawson said, "Some time around the early part of 1921 I discovered an intimacy between my wife and...Smith, which finally developed in breaking up my family and caused me to leave the employment of Smith." Ernest knew of Lawson's hatred of Smith, and more than a year later he visited him. Lawson recalled that Ernest "turned to me and said, 'Burt, I have got a proposition I want to make to you.' I remarked, 'What is it, Ernest?' Ernest said, 'I want you to blow up and kill Bill Smith and his wife.' "

When Lawson wouldn't agree to do it, Hale came to see him and promised him \$5,000 in cash for the job. Hale told him that he could use nitroglycerin and that all he had to do was place a fuse under the Smiths' house. "Hale then pulled from his pocket," Lawson recalled, "a piece of white fuse about three feet and said, 'I will show you how to use it.' He then took his pocket knife and cut off a piece about six inches long...then took a match from his pocket and lighted the end."

Lawson still said no, but shortly after he was arrested for killing the fisherman, Hale—who, as a reserve deputy sheriff, could come in and out of the jail as he pleased—visited him again and said, "Burt, you will be needing some attorneys pretty soon and I know you haven't got any money to pay them with, and I want that job pulled."

Lawson said, "All right Bill, I'll pull it."

One night not long after, Lawson recalled, another deputy sheriff opened his cell and led him to Hale, who was in a car outside. Hale drove Lawson to a building in Fairfax, where Ernest was waiting. Hale told Ernest to get "the box," and Ernest brought out a wooden container. Inside was a jug filled with nitroglycerin; a long coiled fuse was attached to the spout. After carefully loading the box in the car, the three of them made their way to the Smiths' house. "I got out and took the box and fuse, and Hale and Ernest drove on away," Lawson recounted. "I then went in the back way and into Smith's cellar, and placed the box in the far corner of the cellar, then laid the fuse out like Hale told me....I then sat down in the dark and waited." Lawson continued, "I saw the lights turned on. I suppose they all undressed and went to bed for pretty soon the lights went out. I sat there for quite a while, I had no way to tell what time it was, but I

would figure it was about three quarters of an hour, and after I thought they were all asleep, I lighted a short piece of fuse....As soon as the long end began to smoke, I beat it as fast I could." He could hear the house breaking apart. Hale and Ernest picked him up in a spot nearby and returned him to the jail, where the other deputy sheriff snuck him into his cell. Before Hale left, he'd warned Lawson, "If you ever cheep this to anybody we will kill you."

White and Agent Smith felt a rush of excitement. There were still questions. Lawson had not mentioned the involvement of Kirby, the soup man. But Kirby could have prepared the bomb for Hale without interacting with Lawson. White would need to tie up these loose ends, but at last a witness had emerged who could directly implicate Hale in the plot.

On October 24, 1925, three months after White took over the case, he sent Hoover a telegram, unable to conceal a sense of triumph: "Have confession from Burt Lawson that he placed and set off the explosive that blew up Bill Smith's home; that he was persuaded, prompted and assisted to do it by Ernest Burkhart and W. K. Hale."

Hoover was elated. Via telegram, he quickly sent White a message: "Congratulations."

As White and his men worked to corroborate the details in Lawson's confession, they felt a growing urgency to get Hale and his nephews off the streets. The attorney and guardian Comstock, who White no longer doubted was helping investigators by persuading witnesses to talk, had begun to receive threats to his life. He was now sleeping in his office, in downtown Pawhuska, with his .44-caliber English Bulldog by his side. "Once, when he went to open the window, he found sticks of dynamite behind the curtain," a relative recalled. He was able to dispose of them. But, the relative added, "Hale and his bunch were determined to kill him."

White was also very concerned about the fate of Mollie Burkhart. Although White had received reports that she was sick with diabetes,

he was suspicious. Hale had successfully arranged, corpse by corpse, for Mollie to inherit the majority of her family members' wealth. Yet the plot seemed unfinished. Hale had access to Mollie's fortune through Ernest, but his nephew did not yet directly control it, and would do so only if Mollie died and bequeathed it to him. A servant in Mollie's house had told an agent that one night Ernest had muttered to her while drunk that he was afraid something would happen to Mollie. Even Ernest seemed terrified of the plan's inevitable denouement.

John Wren, the Ute agent, had recently spoken to Mollie's priest, who said that she had stopped coming to church, which was unlike her, and that he had heard she was being forcibly kept away by family members. The priest was sufficiently alarmed that he had broken the tenet of parishioner confidentiality. Soon after, the priest reported that he had received a secret message from Mollie: she was afraid that someone was trying to poison her. Given that poisoned whiskey had been one of the killers' preferred methods, the priest sent word back warning Mollie "not to drink any liquor of any kind under any circumstances."

But Mollie's diabetes seemed to have provided an even more devious way to deliver the poison. Some of the town's doctors, including the Shoun brothers, had been giving her injections of what was supposed to be insulin, but instead of improving, Mollie seemed to be getting worse. Government officials working for the Office of Indian Affairs were also concerned that Mollie was slowly being poisoned. A Justice Department official had noted that her "illness is very suspicious, to say the least." It was urgent, the official went on, to "get this patient to some reputable hospital for diagnosis and treatment free from the interference of her husband."

By the end of December 1925, White felt that he could no longer wait. He had not finished confirming many details in Lawson's confession, and there remained certain contradictions. In addition to Lawson having made mention of Kirby, he had insisted that Hale was in Fairfax at the time of the explosion rather than in Fort Worth with Grammer, as some witnesses had claimed. Nevertheless, White

rushed to obtain arrest warrants for Hale and Ernest Burkhart for the murders of Bill and Rita Smith and their servant Nettie Brookshire. The warrants were issued on January 4, 1926. Because agents could not make arrests, they fanned out with U.S. marshals and other lawmen, including Sheriff Freas, who, after being expelled from office, had been reelected to the position.

Several lawmen quickly located Ernest Burkhart at his favorite dive, a pool hall in Fairfax, and transported him to the jail in Guthrie, eighty miles southwest of Pawhuska. Hale, however, could not be found. Agent Wren learned that he had ordered a new suit of clothes and had said that he was planning to leave town at a moment's notice. Authorities feared that Hale had disappeared for good when he suddenly strolled into Sheriff Freas's office. He looked as if he were heading to a formal party: he wore a perfectly pressed suit, shoes shined to a gleam, a felt hat, and an overcoat with his diamond-studded Masonic lodge pin fastened to the lapel. "Understand I'm wanted," he said, explaining that he was there to turn himself in—no need to put the fellas out.

As he was taken to the jail in Guthrie, he was confronted by a local reporter. Hale's deep-set eyes burned, and he moved, in the words of the reporter, "like a leashed animal."



.... *Hale in front of the Guthrie jail* Credit 53

The reporter asked him, "Have you a statement to make?"

"What are you?" Hale demanded, not used to being questioned.

"A newspaperman."

"I'll not try my case in the newspapers, but in the courts of this county."

Hoping Hale might at least talk about himself, the reporter asked, "How old are you?"

"I'm fifty-one years of age."

"How long have you been in Oklahoma?"

"Twenty-five years, more or less."

"You are pretty well known, aren't you?"

"I think so."

"Have large numbers of friends?"

"I hope so."

“Wouldn’t they like to have a statement from you, even though you merely say ‘I am innocent?’”

“I’ll try my case in the courts, not in the newspapers. Cold tonight, isn’t it?”

“Yes. How’s the cattle business this season?”

“Been fair.”

“It’s a long trip from Pawhuska, isn’t it?”

“Yes, but we’ve had a car with curtains up.”

“Now about that statement?”

Hale declined again and was led away by authorities. If Hale had momentarily been uneasy, he was confident by the time White spoke to him—even cocky, evidently convinced that he remained untouchable. He insisted that White had made a mistake. It was as if White were the one in trouble, not him.

White suspected that Hale would never admit his sins, certainly not to a lawman and perhaps not even to the God whom he so often invoked. Ernest Burkhart offered the only chance for a confession. “You could look at him and size him up as the weak sister,” White observed. A prosecutor working with White put it more bluntly, “We all picked Ernest Burkhart the one to break.”



Burkhart was brought into a room on the third floor of a federal building in Guthrie, which was being used as a makeshift interrogation room: the box. He was wearing the same clothes that he had when he was arrested, and White thought that he looked like a “small-town dandy, well dressed in a western way, expensive cowboy boots, loud shirt, flashy tie, and a high-priced, tailored suit.” He moved about nervously and licked his lips.

White and Agent Frank Smith questioned him. “We want to talk to you about the murder of Bill Smith’s family and Anna Brown,” White said.

“Hell, I don’t know a thing about it,” Burkhart insisted.

White explained that they had talked to a man named Burt Lawson in the pen, who said differently—said that Burkhart knew a good deal about the murders. The mention of Lawson did not seem to faze Burkhart, who insisted that he'd never had any dealings with him.

"He says you were the contact man in setting up the Smith house explosion," White said.

"He's lying," Burkhart said emphatically. A doubt seized White, a doubt that perhaps had been lurking somewhere inside him but had been suppressed: What if Lawson was lying and had simply picked up information from other outlaws in prison who had heard rumors about the case? Perhaps Lawson was lying in the hopes that prosecutors would reduce his jail time, in exchange for his testimony. Or maybe the whole confession had been orchestrated by Hale—another one of his plots within a plot. White still didn't know quite what to believe. But if Lawson was lying about anything, getting a confession from Burkhart was even more crucial; otherwise, the case would collapse.

For hours, in the hot, claustrophobic box, White and Smith went over the circumstantial evidence that they'd gathered on each of the murders, trying to trip up Burkhart. White thought that he detected some element of remorse in him, as if he wanted to unburden himself, to protect his wife and children. Yet, whenever White or Smith mentioned Hale, he stiffened in his chair, more afraid of his uncle, it seemed, than he was of the law.

"My advice to you is to tell it all," White said, almost pleadingly.

"There's nothing to tell," Burkhart said.

After midnight, White and Smith gave up and returned Burkhart to his cell. By the next day, White's case encountered even more trouble. Hale announced that he could prove positively that he had been in Texas at the time of the explosion, for he had received a telegram there and signed for it. If this was true—and White was inclined to believe that it was—then Lawson had indeed been lying all along. In White's desperation to get Hale, he'd committed the ultimate sin of an evidence man and believed, despite apparent contradictions, what he wanted to believe. White knew that he had

only hours before Hale's lawyers would produce the record of this telegram and spring Hale, along with Burkhart—only hours before word got out that the bureau had humiliated itself, news that would then reach Hoover. As one of Hoover's aides said of the director, "If he didn't like you, he destroyed you." Hale's lawyers promptly tipped off a reporter who ran a story about Hale's "perfect" alibi, noting, "He's not afraid."

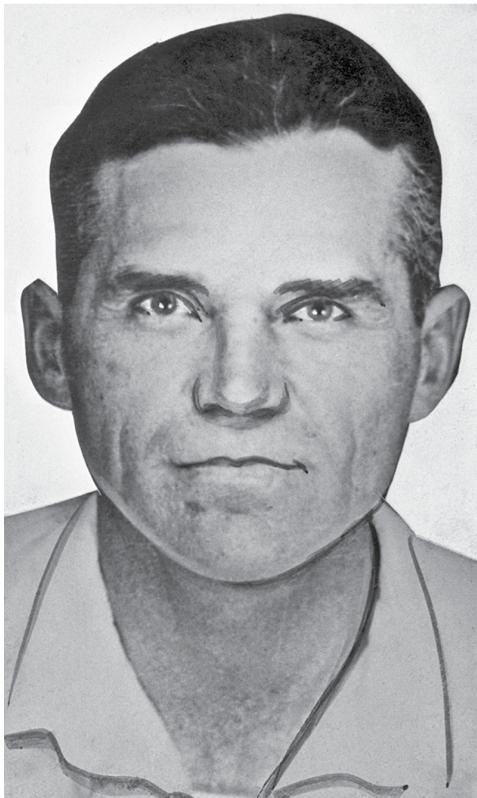
Desperate, White turned to the man who had embarrassed Hoover and become a pariah in the eyes of investigators: Blackie Thompson, the part-Cherokee outlaw who, during the bureau's early investigation, had been released from prison as an informant, only to murder a police officer. Since being caught, he'd been locked up at the state penitentiary, a blight on the bureau best unseen.

Yet, from the bureau's early reports on the case, White suspected that Blackie might have key information about the murders, and without consulting Hoover, White had him transported to Guthrie. If anything went wrong, if Blackie escaped or hurt a soul, White's career would be over. And White made sure that Luther Bishop—a state lawman who had gunned down Al Spencer—was in charge of transferring Blackie. When Blackie arrived at the federal building, he was in chains and flanked by a small army. On a nearby rooftop, White had placed a rifleman, who kept Blackie in his scope through a window.

Blackie was still hostile, sullen, mean, but when White asked him about Hale and Burkhart's role in the murders of the Osage, his mood seemed to change. A man filled with venom and bigotry, he'd once complained that Hale and Ernest Burkhart were "too much Jew—they want everything for nothing."

Agents told Blackie that they couldn't cut a deal with him to reduce his sentence, and he spoke grudgingly at first about the murders, but gradually he divulged more and more. He said that Burkhart and Hale had once approached him and his old buddy Curley Johnson to kill Bill and Rita Smith. As part of the payment, they had proposed that Blackie steal Burkhart's car, and one night, while Burkhart was at home in bed with Mollie, Blackie had taken it from their garage.

Blackie had later been picked up by the law for car theft and never went through with any of the killings.



.... ***The outlaw Blackie Thompson*** Credit 54

It wasn't clear if Blackie would ever agree to testify in court to these matters, but White hoped that he had enough information to save the case. He left Blackie surrounded by guards and rushed with Agent Smith to interrogate Burkhart again.

Back in the box, White told Burkhart, "We're not satisfied with the answers you gave us last night. We believe there's a good deal you didn't tell us."

"All I know is what's common talk," Burkhart said.

White and Agent Smith played their last card: they told Burkhart that they had another witness who would testify to his involvement in the scheme to kill Bill and Rita Smith. Burkhart, knowing that he had been bluffed once, said that he didn't believe them.

"Well, I can go get him if you don't think we have got him," Agent Smith said.

"Bring him in," Burkhart said.

White and Smith went and got Blackie and escorted him into the room. While the gunman on the roof kept Blackie in his scope through the window, the outlaw sat across from Burkhart, who looked stunned.

Agent Smith turned to Blackie and said, "Blackie, have you told me...the truth concerning the propositions made by Ernest Burkhart to you?"

Blackie replied, "Yes, sir."

Agent Smith added, "To kill Bill Smith?"

"Yes, sir."

"Did you tell me the truth when you told me Ernest gave you an automobile as part payment of that job?"

"Yes, sir."

Blackie, evidently enjoying himself, looked squarely at Burkhart and said, "Ernest, I have told them everything."

Burkhart appeared defeated. After Blackie was taken away, White thought that Burkhart was ready to confess and turn on Hale, but each time Burkhart came close to doing so, he stopped himself. Around midnight, White left Burkhart in the custody of the other agents and returned to his hotel room. There were no more tricks to play; exhausted, despairing, he collapsed on his bed and fell asleep.

Not long after, White was jolted awake by the phone. Facing the prospect that something else had gone wrong—that Blackie Thompson had sprung loose—he picked up the receiver and heard the urgent voice of one of his agents. "Burkhart's ready to tell his story," he said. "But he won't give it to us. Says it's got to be you."

When White entered the box, he found Burkhart slumped in his seat, tired and resigned. Burkhart told White that he hadn't killed all

those people, but he knew who had. “I want to tell,” he said.

White reminded Burkhart of his rights, and Burkhart signed a paper that said, “After being so warned, and with no promises having been made me of immunity from prosecution, and of my own free will and accord, I now make the following statement.”

Burkhart began speaking about William Hale—about how he had worshipped him as a boy, how he had done all types of jobs for him, and how he had always followed orders. “I relied on Uncle Bill’s judgment,” he said. Hale was a schemer, Burkhart said, and though he hadn’t been privy to all the mechanics of Hale’s plots, his uncle had shared with him details of a murderous plan: to kill Rita and Bill Smith. Burkhart said that he had protested when Hale had informed him of his intention to blow up the whole house and everyone in it, including his own relatives. Hale told him, What do you care? Your wife will get the money.

Burkhart said that he went along with Hale’s plan, as he always did. Hale had first approached the outlaws Blackie Thompson and Curley Johnson to do the bloodletting. (In a later statement, Burkhart recalled, “Hale had told me to see Curley Johnson, and to find out how tough he was, and if he wanted to make some money, and told me to tell Johnson the job was to bump a squaw-man”—referring to Bill Smith.) Then, when Johnson and Blackie couldn’t do the job, Hale sought out Al Spencer. After Spencer refused, Hale spoke to the bootlegger and rodeo star Henry Grammer, who promised to provide a man for the job. “Just a few days before the blow-up happened, Grammer told Hale that Acie”—Asa Kirby—“would do it,” Burkhart recalled. “That is what Hale told me.”

Burkhart said that Lawson had nothing to do with the explosion, explaining, “You have got the wrong pig by the tail.” (Later, Lawson admitted to White, “All that story I told was a lie. All I know about the Smith blow-up was just what I heard in jail....I done wrong and lied.”) In fact, Burkhart indicated that Hale had gone with Grammer to Fort Worth so they would have an alibi. Before leaving, Hale told Burkhart to deliver a message to John Ramsey, the cow thief and bootlegger who worked for Henry Grammer. The message was for

Ramsey to tell Kirby that it was time to carry out “the job.” Burkhart delivered the message and was home with Mollie on the night of the explosion. “When it happened I was in bed with my wife,” he recalled. “I saw a light on the north side. My wife went to the window and looked out.” She said that she thought somebody’s house was on fire. “As soon as she said that I knew what it was.”

Burkhart also provided crucial details about how Hale had arranged the murder of Roan for the insurance money. “I know who killed Henry Roan,” Burkhart said, and he identified Ramsey—the cow thief—as the triggerman.

The case had broken wide open. White placed a call to Agent Wren, who was out in the field. “There’s a suspect up there named John Ramsey,” White told him. “Take him into custody right away.”

Ramsey was picked up and brought into the box. He wore overalls over his tall, thin frame; his black hair was greasy, and he walked with a slight, menacing limp. A reporter said he seemed “like a nervy and, perhaps, a dangerous man.”

According to the accounts of White and other agents, he looked at the agents warily, insisting he didn’t know a thing. Then White laid Burkhart’s signed statement in front of Ramsey, who stared at the paper, as if trying to assess its authenticity. Just as White and Smith had presented Burkhart with Blackie, they now brought in Burkhart to confirm his statement to Ramsey. And Ramsey threw up his hands and said, “I guess it’s on my neck now. Get your pencils.”

According to his sworn statement and other testimony, sometime in early 1923 Grammer told Ramsey that Hale had “a little job he wanted done.” When Ramsey asked what it was, Grammer said that Hale needed an Indian knocked off. Ramsey, who referred to the plot as “the state of the game,” eventually agreed, and he lured Roan down into the canyon, promising him whiskey. “We sat on the running board of his car and drank,” Ramsey recounted. “The Indian then got in his car to leave, and I then shot him in the back of the head. I suppose I was within a foot or two of him when I shot him. I then went back to my car and drove to Fairfax.”

White observed the way Ramsey kept saying “the Indian,” rather than Roan’s name. As if to justify his crime, Ramsey said that even now “white people in Oklahoma thought no more of killing an Indian than they did in 1724.”

White still had questions about the murder of Mollie’s sister Anna Brown. Ernest Burkhart remained cagey about the role of his brother Bryan, evidently not wanting to implicate him. But he revealed the identity of the mysterious third man who had been seen with Anna shortly before her death. It was someone whom the agents knew, knew all too well: Kelsie Morrison, their undercover informant who had supposedly been working with the agents to *identify* the third man. Morrison had not just been a double agent who had funneled information back to Hale and his henchmen. It was Morrison, Ernest said, who had put the fatal bullet in Anna Brown’s head.

While the authorities went to round up Morrison, they also made sure that a doctor went to check on Mollie Burkhart. She seemed near death, and based on her symptoms, authorities were certain that someone had been secretly poisoning her and doing it slowly so as not to arouse suspicions. In a later report, an agent noted, “It is an established fact that when she was removed from the control of Burkhart and Hale, she immediately regained her health.”

Burkhart never admitted having any knowledge that Mollie was being poisoned. Perhaps this was the one sin that he couldn’t bear to admit. Or perhaps Hale had not trusted him to kill his own wife.

The Shoun brothers were brought in and interrogated over what, exactly, they had been treating Mollie with. One of the prosecutors who was working with White asked James Shoun, “Weren’t you giving her insulin?”

“I may have been,” he said.