

INDIAN RESERVATIONS
IN KANSAS

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INDIAN RESERVATIONS IN KANSAS AND THE EXTINGUISHMENT OF THEIR TITLE.

Thesis prepared in partial fulfilment of the requirement of the University of Kansas for the degree of master of arts, by ANNA HELOISE ABEL,* of Salina, and read before the Kansas State Historical Society, at its twenty-seventh annual meeting, December 2, 1902.

I.—LOCATION OF THE INDIAN RESERVATIONS.

SOME thirty years previous to the passage of the Kansas-Nebraska bill the trans-Missouri region became an integral factor in the development of the United States Indian policy. Those of us who are accustomed to regard the tariff, the national bank and negro slavery as the all-important issues that made and unmade political parties prior to 1861 forget how intimately the aborigines were concerned with the estrangement of the North and the South. That they were intimately concerned in that estrangement no one who has made a careful study of the period can conscientiously deny; and, strangely enough, that part of the "Great American Desert" which, on account of its sunny skies and brilliant sunsets, has been called "the Italy of the New World" was destined to be the testing-ground, or experimental station, of the two principal theories connected with the sectional conflict—squatter sovereignty and Indian colonization. Truly, Kansas has had a remarkable history.

The Indian colonization plan, involving the congregation of eastern tribes west of the Mississippi river, dates back in its conception to the days of Jefferson. Even if conceived earlier, it was not rendered practicable until the purchase of Louisiana had placed an extensive territory, unoccupied by white people, at the disposal of the central government. In drafting the constitutional amendment which, it was thought, would validate the acquisition of foreign soil, Jefferson proposed† that all the land lying west of the Mississippi river, east of the Rocky Mountains and north of the thirty-second parallel should be left in the possession of the native inhabitants, and that thither the eastern tribes should be gradually

*ANNA HELOISE ABEL was born in Sussex, England, 1873, of Scotch and Welsh-English parentage. Her father and mother settled in Kansas comparatively early—having preempted land here in 1871; but afflicted with ague and wholly dissatisfied with frontier life, they soon returned to the British Isles, and did not venture West again until 1884. About sixteen months later, their daughter, the author of this article, who had been left behind at school in London, came with two younger sisters to Saline county, and late in the fall of 1887 was enrolled as a pupil in the Salina public schools, with which she was identified until 1893. Then, after teaching two years in the Parsons district, directly east of Salina, she entered the Kansas State University, from which institution she was graduated with honor in 1898. While at college her favorite studies were English (particularly Anglo-Saxon and argumentation), history, constitutional law, and philosophy, and it was in those subjects that she took her A. M. degree—her master's thesis being "Pessimism in Modern Thought." For a short time after graduation, Miss Abel taught English and Latin in the Thomas county high school, and then returned to the State University as head manuscript reader in the English department. In 1900-'01 she pursued graduate work at Cornell University, Ithaca, N. Y., and from that time until the summer of 1903 taught American history and civics in the Lawrence high school. All her leisure time for the last four years has been devoted to research work on the political and legal status of the North American Indians. The present article is, in part, a result of that work, although an introductory chapter on the nature of the Indian title has been withheld from publication on account of the lack of space. The merits of the article were recognized by Yale University in the award of the Bulkley fellowship in history, and it is at that institution that Miss Abel is now studying, intending to offer for the degree of doctor of philosophy a dissertation on the "History of the Westward Movement and the Migration of the Indian Tribes."—ED.

† Works, 8:241-249.

removed., This was the real origin of the famous removal policy of the United States government.

It is difficult to explain why the plan of Indian colonization was not put into immediate execution. No constitutional use was made of the draft in which it was embodied, yet a clause in the Louisiana territorial act of 1804* shows that the ideas of Jefferson, even at the time of their inception, were not wholly disregarded. Years passed away, however, before any serious effort was made to remove the eastern tribes, and, in the meantime, white settlers established an illegal preemptive right to a large part of the Louisiana purchase.

After the close of the war of 1812, Southern politicians attempted to revive a national interest in the removal project. Their reasons for so doing were mainly economic. Some of the most valuable agricultural districts south of the Mason and Dixon line were occupied by the Choctaws, Chickasaws, Creeks, and Cherokees—powerful tribes whose integrity had been repeatedly guaranteed by the treaty-making power. Nothing could have been more detrimental to the commercial development of the plantation states, and therefore their criticism of the national policy was bitter and persistent. Georgia took the lead in opposition, and historically justified her own action by a liberal interpretation of the compact of 1802.† Her construction of that document was not consistent with the facts in the case; for the federal government had not promised to expel the Indians from Georgia, but only to extinguish their title within the reserved limits of the state “as soon as it could be done peaceably and on reasonable terms.”

The Southern states were not alone in desiring compulsory migration of the Indian tribes. The white population increased so rapidly northwest of the Ohio river that the Indians in the “hunter stage” became a nuisance and a serious impediment to progress. New York speculators made a desperate effort to get the present state of Wisconsin reserved as an Indian territory, so as to force the remnants of the Iroquois beyond their ancient boundaries. As a general thing, however, the movement in the North was a trifle less mercenary, less indicative of race animosity, than that in the South. Indeed, at times it was actually philanthropic, for isolation appeared, to an occasional zealous missionary like Rev. Isaac McCoy,‡ the only possible way of preserving the red men from moral degradation and from ultimate extinction.

*2 U. S. Statutes at Large, pp. 283-290.

†American State Papers, class 8, “Public Lands,” 1:126.

‡REV. ISAAC MCCOY was born near Uniontown, Fayette county, Pennsylvania, June 13, 1784. He spent his youth in Kentucky. In 1817 he commenced his missionary work among the Miami Indians in the Wabash valley, Parke county, Indiana. Here he remained until 1820, when he opened a school at Fort Wayne. When the Pottawatomies were granted a reservation on the St. Joseph river, in Michigan, in 1820, he went to them. In 1826, in company with others, he established the Thomas mission, on Grand river, among the Ottawas. Here the idea came to him that if he could get the Indians removed from the vicinity of white settlements greater progress might be made in elevating them. In January, 1824, Mr. McCoy visited Washington and submitted a scheme for the removal of the eastern tribes to the west of the Mississippi to John C. Calhoun, then secretary of war. Calhoun approved the idea, and from that time on was a valuable friend to the measure. From 1824 to 1828 Mr. McCoy made vigorous efforts to further the object, and in the latter year an appropriation was made for an exploration of the territory designed for the tribes. On the 15th of July, having been appointed one of the commissioners for the purpose, he arrived at St. Louis, with three Pottawatomies and three Ottawas, to explore the country now Kansas, and, if desirable, select homes for those tribes. On the 21st of August he started with his northern Indians to explore a portion of the territory purchased of the Osages and the Kaws, and east of the country of the Pawnees. The party crossed Missouri and reached the Presbyterian mission of Harmony, on the Marais des Cygnes, a few miles from the south line of Bates county, Missouri. With a half-breed Osage for a guide, the party followed the Osage and Neosho rivers until they came to the head waters of the latter, and then crossed over to the Kansas, returning down stream on the south bank to the Shawnee settle-

During the presidency of James Monroe the strict constructionists fought for the expulsion of the aborigines in real earnest. At national headquarters Indian rights were, in a sense, still respected. At least, they were considered to the extent that nothing but voluntary removal was to be thought of. In certain local communities, on the other hand, it was evident that force and force only would suffice. The questions became involved with that of the territorial extension of slavery, and John C. Calhoun, disappointed in the loss of Texas, is said to have planned in his elaborate report of 1825* the undoing of the work of the Missouri compromise. His idea was to give the Indians a perpetual property right in an extensive tract west of the Mississippi river. Had he stopped there, suspicion of an ulterior motive could no more have been directed against him than against Jefferson; but unfortunately he went on to arrange for the definite location of the individual tribes; and in placing them as a permanent barrier west of Lake Michigan and west of the Missouri river, he exposed himself to the charge of endeavoring to block free-state expansion in its legitimate field north of the interdicted line.

The administration of John Quincy Adams offered, in its political disturbances, a rare opportunity for Georgian partizanship to work its will. The scholarly president did his best to maintain his own dignity and to protect the Indians; but he was no match for Gov. Geo. M. Troup. In the controversy that arose over the setting aside of the fraudulently obtained treaty of Indian Springs, charges of bad faith were hurled with vituperative fierceness against the federal executive. His authority was ignored and even openly resisted. Georgia was dangerously near the brink of secession; and, had not some faint, lingering hope of reelection caused Adams to modify his opposition to Southern aggression by advocating the policy of removal, it is not difficult to surmise what would have been the outcome.

With the election of Andrew Jackson, the Indians were given to understand that their removal westward, voluntary or compulsory, just as they pleased to make it, was only a question of time. There was to be no more wavering, no more sentimental talk about justice. For several years fragments of tribes had emigrated under the direction of the treaty-making power; but now Congress was appealed to as an aid to systematic migration. In 1830 a law was passed† which legalized removal and prepared for the organization of an Indian country west of the Mississippi that should, in theory, embrace all the federal territory that had not yet been preempted by the insatiable pioneers. It is believed that

ment on the Missouri state line. He was directed to make another tour, covering north and west Kansas, but the Pawnees being on the war-path, he went south to White Hair's village, on the Neosho, about five miles south of the present town of Oswego, in Richland township, Labette county. In January, 1829, Mr. McCoy visited Washington and submitted a report and map of his explorations to the department of Indian affairs. On the 27th of July, 1829, he started on a trip into the territory occupying twenty days. In 1837 he was sent out again by the government, and was absent four months. From this time until his removal to Louisville, Ky., he labored unceasingly for the advancement of the tribes in the West. He died at Louisville in 1846. The Kansas State Historical Society has Mr. McCoy's manuscripts, correspondence, journals and diaries, business papers, etc., covering a period from 1808 to 1849, bound in thirty-eight large volumes, and pamphlets published by him as follows: *The Practicability of Indian Reform and their Colonization*, 1827; second edition of the foregoing, with an appendix, 1829; *An Address to Philanthropists*, written on the Neosho river, 1831; *Annual Register of Indian Affairs*, No. 1, 1835, and No. 3, 1837; *Proceedings of the American Indian Mission Association*, 1843; the same for 1846; and the *Indian Advocate*, 1846. The *Annual Register* was printed in Kansas, the first number by "J. Meeker, printer, 1835," and the third number by "J. G. Pratt, printer, 1837." — Ed.

*Gales and Seaton's Register, 1, appendix, pp. 57-59.

†4 U. S. Statutes at Large, pp. 411, 412.

a few of the most broad-minded statesmen hoped that an Indian state in the Union would ultimately be created; and, indeed, a small federal reserve was laid off in Franklin county, Kansas; but, unfortunately, long before the emigrants were ready for statehood, or for anything approaching it, they were obliged to move on.

Some of the tribes indigenous to the trans-Missouri region had been in trade relations with the United States since the early years of the century. Nevertheless they were anything but peaceful, and were disposed to be a serious obstacle to the planting of Indian colonies. In recognition of that fact, the federal government, without actually committing itself to the removal policy, opened up negotiations for the extinguishment of the primary title. Its object was to introduce the reservation system—not to drive the natives westward, but simply to restrict their territorial limits, and thus make room for the would-be emigrants. Two powerful tribes, both of Dahcotah lineage, dominated the territory under discussion; and it was with them that the government had first to deal. With the Arapahoes, Cheyennes, Kiowas, and Comanches—Indians of the plains, as they were called—it had no intention of interfering; because their hunting-grounds lay beyond the line of immediate need. Other tribes, like the Pawnees, the Otoes, and the Missourias, were likewise, for the time being, left unmolested; because infectious diseases and internecine wars had placed them in no condition to dispute the entrance of foreigners.

Up to 1825 the Kansa Indians, more familiarly known in the vulgar language of to-day as the Kaws, claimed an ill-defined hunting-ground north of the Kansas river. They constituted the only tribe whose territorial limits were exclusively within the present boundaries of Kansas, and, therefore, it seems eminently fitting that they should have given their name to the sunflower state. Their blood relations and hereditary enemies, the Osages, were somewhat similarly situated south of the river, although the best part of their tribal lands extended east of the Missouri line and south of the thirty-seventh parallel. It was with these two tribes that the United States saw fit to negotiate, in order to prepare for Indian colonization.

The Kaw and Osage treaties of 1825, drafted by Governor Clark,* of Missouri, were of a complex character; but their real object was sufficiently well accomplished in the cession of an immense tract of territory, the greater part of which was to be paid for on a sort of instalment plan. Thus did the United States transfer to virgin soil its pauperizing system of annuities. Such lands as were not ceded, either directly or in trust, were retained as reservations—the first to be recorded in the history of Kansas.

* GEN. WILLIAM CLARK, born in Virginia, 1770, died in St. Louis, 1838, was joint commander with Capt. Merriwether Lewis of the expedition across the Rocky Mountains to the mouth of the Columbia river, 1804-'05. He was appointed Indian agent at St. Louis in 1807, and the same year brigadier-general for Louisiana territory. He served as governor of Missouri territory from 1813 to 1820, and as superintendent of Indian affairs at St. Louis from 1822 until 1838. The library of the Kansas State Historical Society has among its St. Louis Indian office manuscripts ten volumes of the correspondence of General Clark between the years 1812 and 1839, embracing volume on Indian surveys in Kansas, 1830-'36. The Society also has his original diary and meteorological record kept at St. Louis, 1826-'31, and one of the manuscript volumes of the Missouri Fur Company, with which he was connected. (See pages 49 and 125 of the Society's third volume of Collections.) Coues says that General Clark had the respect and confidence of the Indians, and that "during his long administration of Indian affairs he was instrumental in bringing about many important treaties, not only between his government and the Indians, but also between different tribes of the latter."—ED.

KANSA.

The Kansa Indians, at different times, occupied two distinct reservations in the trans-Missouri region. In 1825* one was carved out of their original possessions; the other in 1846,† out of unoccupied territory in the neighborhood of Council Grove. The first reservation had practically no western boundary, except as it was naturally limited by the presence of other Indians; but it began at a point twenty leagues up the Kansas river and extended westward with a uniform width of thirty miles. In 1846 the Kaws sold the eastern part of it, thirty by thirty miles in extent, to the federal government for the use of the Pottawatomies; and stipulated that if the diminished reserve proved destitute of timber adequate to their needs, it should be exchanged for lands of equal value farther south. The timber was really scarce, and accordingly Maj. Richard W. Cummins, with the approval of Supt. Thos. H. Harvey, staked out a new reservation, which was, most unfortunately for the future peace of Kansas, not regularly surveyed until several years had elapsed. S. Eastman's map, generally adjudged authentic, represented the reservation in a particular position, which the official survey of Montgomery, in 1856, declared to be inaccurate. Meanwhile settlers had inadvertently trespassed upon the lands of the real reserve. They refused to vacate the premises until the government had indemnified them for their improvements. Their removal became an issue in local politics; but in the long run the Indians, as usual, were held responsible for the carelessness of the federal government.

The treaty of 1825 made special provision for the Kaw half-breeds, who seem for the most part to have been the offspring of French traders. The full-blooded Kaws shared the reserve in common, but the half breeds received an individual interest in twenty-three sections of land, which were subsequently surveyed by Maj. Angus L. Langham and located pretty generally side by side on the north bank of the river. In the absence of exact data, their relative position can be best understood by remembering that section 4 constitutes the site of North Topeka, and that section 23 is almost directly opposite Lecompton.

The title to these centrally situated lands became in after years the subject of much litigation. A question arose as to whether the restriction placed by the treaty of 1825 upon the alienating power of the full-blooded Kaws applied with equal force to the half-breeds. In 1860 Congress declared that it did;‡ but two years later reversed its own decision.§ Much mischief had been caused by the uncertainty, and it is interesting to know that it was ostensibly for alleged speculation in the Kaw half-breed lands that Andrew H. Reeder, the first territorial governor of Kansas, and Judges Rush Elmore and Saunders W. Johnson were removed from office.|| Another controversy arose as to what property rights were transmissible to the children of the half-breeds. Did the title lapse with the grantee? The case was argued before the supreme court, and there decreed that the word "heirs," as used in the congressional enactment of 1860, signified such individuals as were there recognized as heirs by the laws of Kansas.¶

OSAGE.

In 1825 the federal government pushed the Osages as far south of the Kansas river as possible. Their reserve was fifty miles wide and extended westward

*7 U. S. Statutes at Large, pp. 244-247.

† Revised Indian Treaties, pp. 410-414.

‡ 12 U. S. Statutes at Large, p. 21.

§ 12 U. S. Statutes at Large, p. 628.

|| Kansas State Historical Collections, vol. 5, pp. 225-234.

¶ Brown et Brown v. Belmarde, 3 Kan. 41.

from White Hair's village, an Indian encampment which is supposed to have been situated on the Neosho river about "six miles below the present city of St. Paul."* The treaty provided that the western boundary should be "a line running from the head sources of the Arkansas river southwardly through the Rock Saline"—probably as far west as the Osages had ever dared to assert an occupancy claim. Nevertheless, government maps invariably extend the reserve to the old United States line, or the one-hundredth meridian. Such a discrepancy between authoritative data can be satisfactorily explained only by revealing the duplicity of the official who superintended the survey of the Osage trust lands in 1865. Instead of leaving the matter entirely to the management of the surveyor-general, as was customary, the secretary of the interior let the contract, for political reasons, to private surveyors, and permitted them to charge just double the regular cost of such work. Naturally it was to their advantage to represent the reserve as large as possible, and so they arbitrarily extended its western boundary to the one hundredth meridian.

An additional provision in the Osage treaty of 1825 deserves at least a passing notice; because it created a "buffer state" between Missouri and the reservation. The object was to prevent hostile incursions of one race upon the other. It cannot, however, be said that the land was absolutely surrendered to the federal government. It was simply neutralized, and the Osages retained a nominal interest in it by establishing a half-breed settlement between Canville and Flat Rock creeks. This was in accordance with a clause of the treaty which had set aside forty-two sections of land on the Neosho and Marais des Cygnes rivers. About 1825 some wandering Cherokees, an advance-guard, so to speak, of the banished tribe, settled in the southeastern corner of the "buffer state"; and in 1836, the federal government having extinguished the Osage half-breed title, sold the whole of it to the Georgian exiles. Henceforth it was called, very appropriately, the Cherokee neutral lands.

*Nelson Case, History of Labette County, pp. 18, 26; Kansas State Historical Collections, vol. 6, p. 148; Gov. Sam'l J. Crawford's message, January 11, 1865, pp. 26-31.

From the following correspondence, it will be seen that there was some controversy regarding the initial point of the survey of the Osage reservation, ending in favor of the survey of 1859, at least, so far as the northern boundary was concerned, which coincides with Miss Abel's location.—ED.

STATE OF KANSAS, EXECUTIVE OFFICE,
TOPEKA, September 15, 1865.

DEAR SIR—Some time ago I referred the question as to the boundary lines of the Osage and Cherokee reservations to the secretary of the interior, at Washington, which was by him referred to the commissioner of the general land-office, and he reported adverse to our claims, taking the survey and report of Deputy Surveyor George C. Van Zandt as his basis, and ignoring previous surveys. The only way we can settle the question definitely is, to ascertain the exact locality of the "old White Hair village," its distance from the western boundary line of the state of Missouri, and the 37 or southern boundary of Kansas. Also the location of the subsequent villages laid out and called by the same name of White Hair Village. If you will, at your earliest convenience, go down and ascertain these facts, together with the names and location of parties now living, who know them to be true, and report them to me, (in person, if possible,) I shall be able to have a new survey made and the boundaries of these reservations properly established. I am satisfied that a great fraud has been committed, and think we should use every effort to have it corrected. Answer.

To G. J. ENDICOTT.

Yours truly, S. J. CRAWFORD, Governor.

To his Excellency, Gov. S. J. Crawford:

SIR—In accordance with your instructions, I proceeded to ascertain the bounds of the Osage and Cherokee neutral lands, and have the honor to report that during the month of November, 1865, I proceeded, in company with John A. Cramer, Wm. Howard, Jacob Youstler, John Q. Adams, and George W. James, to ascertain, by actual survey and measurement, the exact boundary line of the Osage Indian reservation and the Cherokee neutral lands; also the Seneca, Quapaw and Shawnee reservations.

The first and most important question for us to determine was the exact location of the original "old White Hair village," the place designated in the Osage treaty of June 2, 1825, as the starting-point for the described boundary of their reservation, and from which the boundary line of the Cherokee neutral lands is established.

Starting at a point on the western boundary line of the state of Missouri, 136½ miles south from the Missouri river, and forty-one and a half miles north from the southwest corner of the state of Missouri, thence running on a due west line for twenty-seven miles to the original "old White Hair village," which is situated on the right or west bank of the Neosho river.

From the "old White Hair village," to the thirty-seventh degree of north latitude (the

SHAWNEE.

As soon as the Kaws and Osages had left a clear field in which to plant colonies, the United States set to work to effect an exchange of lands with the eastern tribes. The Shawnees, whose ancestors had been parties to the Pennsylvania compact of perpetual peace, were the first emigrants. In the long course of years their tribe had become greatly disintegrated and fragments of it had wandered away in different directions. Some of the exiles had settled in Missouri, on the Carondelet grant, and it was with them that the federal government treated in 1825. Governor Clark superintended the affair, and induced the Shawnees to exchange their Cape Girardeau lands for a Kansas grant of fifty miles square. The selection was first made in the southeastern corner of the Osage cession; but it was not altogether pleasing to the Shawnees, so they made a second choice, directly south of the Kansas river. The reservation was deeded to them May 11, 1844.*

A peculiar clause in the treaty of exchange gave rise to a transaction in which the honor of the United States was seriously compromised. The Missouri Shawnees very magnanimously made their brethren of Ohio beneficiaries of the treaty, and promised them 100,000 acres of the new reserve if they would emigrate to Kansas. The Ohio Shawnees were slow in complying with the condition, and, when they did at length decide to emigrate, permitted the federal government to superintend the sale of their old lands. The result was that the agents abstracted from the net proceeds a sum equivalent to seventeen cents an acre, on the pretense that it was to pay for the 100,000 acres in Kansas. The whole Shawnee tribe objected to the double payment, and preferred a claim for indemnity against the United States. In 1852 Congress thoroughly sifted the matter, and ended by refunding the ill-gotten gains.†

DELAWARE.

The history of the Delawares is intimately connected with that of the Shawnees, and therefore it was perfectly natural that, pursuant to the supplementary treaty of 1831,‡ a new colony should be planted on the Kansas river, this time on the north bank, opposite the Shawnee settlement, and that there the Delaware

southern line of the state of Kansas) is eleven and a half miles, but to the present survey of said line, only four and a half miles.

At this village I found three mounds of stone, and a large mound of earth with stone in the center, which, I am satisfied, was the original starting-point for the boundary line of the Osage reservation,

The southeast corner of the Osage lands is the same as the southwest of the Cherokee neutral lands, which is found by starting at the southwest corner of the state of Missouri; thence north on said line of Missouri one and a half miles to Honey creek — first running water — (original southeast corner of the Seneca lands); thence west to a large mound of earth, originally seven feet square, and six and a half feet high, with a rock in it, on which is inscribed "Cherokee lands," west of which mound (about forty chains), is a mass of rock; running from said mound of earth twenty-five miles east, to a rock and three post-oak trees; thence north fifty miles, to a mound of earth, originally six feet square and five and a half feet high; thence west twenty-five miles, to the northeast corner of the Osage lands, which is a mound of earth six feet square and five feet high. No timber in the vicinity.

And I further state that the Cherokee neutral lands now embrace within their limits all the Seneca, Quapaw and Shawnee reservations.

I also superintended the running of the line from George White Hair village to the west line of the state of Missouri, thirty-two miles, seventy-one chains, and twenty-nine links, striking said line of Missouri nineteen chains and fifty links south of milestone 111 from the Missouri river. From a number of the oldest Indians in the nation, including a grandson of the "old White Hair," and a son of George White Hair, who laid out and located the present White Hair village, which stands on the west bank of the Neosho river, about thirty-three miles west of the state line of Missouri, and from the house of George White Hair to the state line of Missouri thirty-two miles, seventy-one chains, and twenty-nine links; and about twenty-nine miles north of the original "old White Hair village." It was from the village laid out by George White Hair, a son of the original White Hair, that Dept. Surv.-gen. George C. Van Zant is supposed to have started his line when he surveyed these lands in 1859. (Signed) G. J. ENDICOTT.

* Congressional Globe, 26, pp. 811-814.

† Congressional Globe, 26, pp. 811-814; Harvey's History of the Shawnees, chapter 31.

‡ 7 U. S. Statutes at Large, p. 327.

Indians should slowly congregate. They ceded certain lands in Indiana * and accepted in exchange an extensive tract lying within the Kaw cession. The reservation, as it was originally laid out, extended from the confluence of the Missouri and Kansas rivers to the eastern limit of the Kaw lands, thus encroaching upon the twenty-three sections that had been already granted to half-breeds. Bickerings and disputes followed, as a matter of course, and continued until 1860, when, in the settlement with the Kaw half-breeds, the Delawares were reimbursed by the United States for the surrender of the title.† In addition to the actual reserve the Delawares were given an "outlet," which implied that they were to have free access to the hunting-grounds lying west of their reservation limits. This outlet, ten miles in width, extended along the entire northern boundary of the Kaw reserve.‡

OTTAWA.

The Ottawas, or Ottois, as their name is more correctly pronounced, came originally from Canada. Indeed, some of them are still within British dominions. Those that emigrated therefrom first settled in Michigan, and then gradually moved southward until they occupied lands around Toledo. In 1832 some of their number entered into treaty arrangements with the United States, and, as a result, agreed to remove to Kansas.§ The Ottawas of Blanchard's Fork were promised 34,000 acres and those of Roche de Bœuf 40,000. The two assignments were comprised, however, in a single compact body of 72,000 acres. It was located on the banks of the Osage river, and the present city of Ottawa, founded by Isaac S. Kalloch ¶ and C. C. Hutchinson, in 1863, is situated almost in its center.

* By treaty of October 3, 1818, the Delawares ceded to the United States their land in Indiana, with the proviso that they might retain the use of their old improvements for three years. In return, they were to be given lands upon the west side of the Mississippi. The lands given them were on the James fork of the White river, in southwestern Missouri, though John Johnston, of Piqua, Ohio, whose name is signed to the treaty of 1818 as "agent," says in Cist's Cincinnati Miscellany, December, 1845, volume 2, page 241: "I removed the whole Delaware tribe, consisting of 2400 souls, to their new home southwest of Missouri river, near the mouth of the Kansas, in the years 1822 and 1823."

† 12 U. S. Statutes at Large, p. 1131.

‡ This is the only instance in which an outlet was marked off in Kansas. It was a rather extraordinary arrangement, but seems to have occasioned no particular trouble in the case of the Delawares. The Cherokee outlet, in the Indian Territory, had a somewhat more eventful history, owing to the fact that for a long time the government land-office was disposed to regard No Man's Land as its western extension. Such a view was, of course, quite erroneous; because the Cherokee outlet, having been granted previous to the Mexican war, could not have been extended beyond the old United States line.

The tract known as No Man's Land was originally part of Texas. It became separated from her in a peculiar way. By the joint resolution which admitted her to the Union as a state, Texas was forbidden to have slaves north of the Missouri compromise line. Consequently No Man's Land and all the rest of the territory that lay north of 36° 30' became excluded from her limits. When the southern line of Kansas was first run, it was placed considerably farther south than it is to-day, and No Man's Land lay to the north of it. Later on, when the government moved the southern boundary of Kansas to the thirty-seventh parallel, expecting to make it correspond with the dividing line between the Osage and Cherokee reservations, No Man's Land was left outside. It was not even incorporated with New Mexico when her boundaries were determined, and therefore came to be considered by some cattlemen, squatters and traders who settled on Beaver creek, subsequent to 1870, as outside the limits of any jurisdiction whatsoever. Eventually it was attached to Oklahoma.

§ 7 U. S. Statutes at Large, pp. 360, 361.

¶ REV. ISAAC S. KALLOCH was born at Rockland, Me., in 1832. He died, after a most tempestuous career, at Whatcom, Wash., December 11, 1887. He became a Baptist minister, and began life as pastor of the First Baptist Church at Rockland, where he remained five years. He removed to Boston and was pastor of Tremont Temple for two years, when, in January, 1857,

The first Ottawa emigrants came to Kansas in 1837. They were singularly susceptible to civilizing influences, and made, under the guidance of the Rev. Jotham Meeker,† both spiritual and material progress. Yet they suffered more than some other tribes from the radical change in climate. Mr. Roby, the Indian agent who conducted them to their new home, reported that "out of about 600 emigrants, more than 300 died within the first two years, because of exposure, lack of proper food, and the great difference between the cool, damp woods of Ohio and the dry, hot plains of Kansas." It is even said that at no time during their comparatively brief sojourn in Kansas did the natural increase more than equal the mortality. They also suffered from the great flood of 1844, which devastated the whole valley of the Marais des Cygnes.

he was tried in the civil courts for adultery—all of which he denounced as persecution because of his fearless interest in free-soil Kansas. He was a matchless orator, with a flow of language rarely equaled. After one of the most exciting trials in all the history of the country, he resigned the pastorate of Temple church in 1858, when he came to Kansas, remaining until 1860. In this latter year he was given a unanimous call to the pastorate of the Laight Street Baptist Church, in the city of New York. He served in that place three years, and in 1864 returned to Kansas. He drifted to Ottawa, and in company with C. C. Hutchinson* started a paper called the *Western Home Journal*. This he afterwards removed to Lawrence, where he formed a partnership with T. Dwight Thatcher and Milton W. Reynolds in the publication of the *Republican*. This firm soon dissolved, and Kalloch started the *Spirit of Kansas*. He served a year or so as superintendent of the Leavenworth, Lawrence & Galveston railroad. He was landlord of the Eldridge House for a while, ran a stock farm, traded horses, and indulged in politics. In the Hammond revival, in 1871, he "experienced a change of heart," and returned to the ministry. He was a candidate for the United States senate in 1867, and in 1868 was a presidential elector. He was a member of the Kansas legislature in 1873. He was pastor of the Baptist church in Leavenworth, at \$3000 per year, and between 1873 and 1877 he went to San Francisco as pastor of the Metropolitan Temple, at \$5000 per year. He soon became mixed in politics with Dennis Kearney and the sand-lotters, and on the 3d day of September, 1879, he was elected mayor of San Francisco by this element. In 1880 articles of impeachment were preferred against him. In the summer of 1879, Charles De Young, of the San Francisco *Chronicle*, shot and wounded Kalloch for some reflection upon his family in a speech. Kalloch recovered. De Young came to Kansas and worked up a pamphlet about Kalloch's debaucheries, and for this I. M. Kalloch, the son, entered the *Chronicle* office and killed De Young. About the 1st of March, 1885, Kalloch and his family moved to Whatcom, Wash., to make their home.—ED.

*CLINTON CARTER HUTCHINSON was born at Barnard, Windsor county, Vermont, December 11, 1833. He was educated in the common schools, and prepared himself for civil engineering. At the age of nineteen he entered the service of the Rock Island & Pacific Railroad Company, at Iowa City. In 1854 he bought a farm near Chicago for three dollars per acre. In 1856 he sold the farm and moved west, and arrived in Lawrence May 14, and immediately joined a free-state military company. After making a trip east that summer in the interest of the free-state cause he settled on a claim ten miles south of Lawrence, on which he resided two years. He became connected with a newspaper in Lawrence. In 1860 he went east again, soliciting for Kansas, and was mainly instrumental in getting \$50,000 from the New York legislature. In 1861 he was appointed agent for the confederated tribes of the Sac and Fox, Chippewa, Munsee and Ottawa Indians. In 1863, associated with Kalloch, he located the town of Ottawa, in Franklin county. He identified himself with the building of the Atchison, Topeka & Santa Fe, and in November, 1871, located the town bearing his name, which has been ever since the county-seat of Reno county. He represented Reno county in the legislature of 1873. He was the author of a book entitled "Resources of Kansas," of which the legislature purchased 2500 copies.—ED.

†REV. JOTHAM MEEKER was born at Xenia, Ohio, November 8, 1804. He worked on the farm during boyhood, and became a thorough printer before reaching majority. Under the supervision of Rev. Isaac McCoy, he commenced missionary work among the Pottawatomies, at Carey, Mich., in 1825. In 1827 he became superintendent of the mission among the Ottawas, at the neighboring station of Thomas. In 1830 he married Miss Eleanor D. Richardson, one of his co-workers. While at Thomas he applied the English alphabet to the phonetic spelling of Indian words so successfully as to greatly lessen the labor of the Indian children and adults in learning to read. His method was adaptable to all Indian languages. At the instance of Rev. Isaac McCoy, he came to Kansas in the fall of 1833, bringing with him the first Kansas printing-press, which was set up at the Shawnee Baptist mission, in what is now Johnson county. The first issue was the Delaware First Book, in March, 1834. Of the many books and pamphlets printed by

PEORIA AND KASKASKIA, WEA AND PIANKESHAW.

It is difficult to determine just when the Wea, Peoria, Kaskaskia and Piankeshaw Indians first came to Kansas. They made treaties of cession in 1833; but allusions in those treaties show that some of their number had already emigrated. It is still more difficult to disassociate any one of the four tribes from the other. They were neighbors in their old Illinois home and neighbors in Kansas. They are almost always mentioned together in the government records, and it is not at all surprising that they eventually affiliated as a single tribe.

In 1833 the United States increased the Indian emigration to Kansas by agreeing to possess the Peorias and Kaskaskias* of 96,000 acres, and the Weas and Piankeshaws of 160,000.† The two reservations were located side by side, immediately south of the Shawnee lands. The larger of the two fronted Missouri, and extended fifteen miles north and south by sixteen and two-thirds miles east and west; the smaller lay to the westward and bordered upon the Ottawa reserve.

KICKAPOO.

By a very early treaty, that of Edwardsville,‡ negotiated in 1819, the Kickapoo Indians were promised a grant of land which should be situated within the territory of Missouri. That grant was resigned some fourteen years later in favor of another which bordered upon the Missouri state line and the northern part of the Delaware lands.§

QUAPAW.

In 1834 the Quapaws, the unfortunate remnants of the old Arkansa Indians, were placed upon a tract of 150 sections. Ten years earlier they had been the victims of Southern politics; that is, they had been prevailed upon by the United States to vacate their own lands, in order to make way for the possible emigration of the Choctaws. They were the first western Indians to feel the ill effects of the removal scheme. For a time they dwelt with the Caddoes, of Louisiana, and then applied for a separate reservation. One was assigned them as an act of justice in 1834,¶ only twelve sections of which lay in Kansas, as was discovered when the state line was run, in 1857.** In 1867 the Quapaws disposed of those twelve sections by ceding eleven and one-half to the federal government and presenting the remaining one-half to Samuel G. Vallier.††

CHEROKEE.

In 1834 the Cherokees, realizing that not even the decision of the United States supreme court could protect them against injustice,‡‡ prepared to emigrate

Mr. Meeker at this station and at the Ottawa mission, to which he moved in 1837, the Historical Society has the following: Cahta Holisso, cikosi aikhana; Shawnee Baptist mission, J. Meeker, printer, 1835. The History of our Lord and Savior Jesus Christ, translated into the Delaware language, in 1806, by Rev. David Zeisberger; retranslated by I. D. Blanchard; J. Meeker, printer, Shawnee Baptist mission, 1837. Original and Select Hymns in the Ottawa Language, by Jotham Meeker, Shawnee, I. T., 1845. Ottawa First Book, and Ottawa Laws, by Jotham Meeker, second edition, Ottawa Mission, 1850. Isaac McCoy's Annual Register was also published by Mr. Meeker. The Society has also four large manuscript volumes of Mr. Meeker's correspondence, and his diary, 1832-'55, in three volumes. He died at Ottawa Mission in January, 1855.—Ed.

*7 U. S. Statutes at Large, p. 404.

†7 U. S. Statutes at Large, p. 410.

‡7 U. S. Statutes at Large, p. 200.

§7 U. S. Statutes at Large, p. 391.

¶7 U. S. Statutes at Large, p. 424.

**Act of Congress, July 8, 1856, 11 U. S. Statutes at Large, pp. 27, 139.

††15 U. S. Statutes at Large, p. 514.

‡‡7 U. S. Statutes at Large, pp. 156, 414, 478.

west of the Mississippi. President Jackson had already given them to understand that there was to be no more temporizing. Go they must, because the sovereign state of Georgia, coveting their lands and particularly their gold-fields, had so decreed. A tract of seven million acres, lying mostly in the present Indian Territory, was set apart for their use; but even then they had fairly to be driven into exile, and Gen. Winfield Scott, at the head of a strong military force, was detailed for the accomplishment of the work. Had the Cherokees contented themselves with these seven million acres they could not have properly been called Kansas emigrants; because their reserve extended only a very short distance beyond the thirty-seventh parallel.* In 1836, however, they purchased the Osage "buffer state" from the general government for \$500,000.† It comprised about 800,000 acres; but the Cherokees never actually occupied it. It lay directly east of the Osage reserve, and presumably bordered upon the Quapaw strip. That proved a mistaken notion when the land came to be surveyed; for it was then found that, between the two tracts, lay a tiny ribbon of public domain.‡

CHIPPEWA.

Between the years 1833 and 1836, the United States entered into several treaty arrangements with the various Chippewa bands. In 1836 the Swan Creek and Black River Chippewas were granted land in what is now Franklin county, Kansas.§ It was a small reservation, covering approximately 8320 acres, yet proved amply sufficient for their needs. In 1838 the Saginaw band of Chippewas, by treaty with the federal government,¶ were promised a reservation southwest of the Missouri river. A later treaty, amendatory ** in its nature, located the land a trifle more definitely on the head waters of the Osage. That would have brought the hitherto scattered bands very close together; but apparently the Saginaws never came to Kansas.

IOWA, SAC AND FOX OF MISSOURI.

In 1837 two tribes, the Iowas and the confederated Sacs and Foxes of Missouri,†† each received a grant of 200 sections lying immediately north of the Kickapoo reservation, and extending a considerable distance beyond the fortieth parallel. Their grants might very aptly be called the twin reservations, as they were made by the same instrument and were exactly the same size and shape. The entire tract of 400 sections was in the form of a rectangle, and Rev. Isaac McCoy, who, by the way, surveyed the greater number of the Kansas reserves, assigned each of the two parties its 200 sections in such a manner that the original tract was divided diagonally from the northwest to the southeast, the lower half being given to the Sacs and Foxes of Missouri and the upper half to the Iowas.

POTTAWATOMIE.

Early in 1837 a treaty was proclaimed‡‡ by which, in consideration for the cession of much coveted lands in Indiana, the Pottawatomie Indians were promised a tract of country on the Osage river, southwest of Missouri, "sufficient in extent and adapted to their habits and wants." The treaty was negotiated, as Indian

* Report of the United States Land Office, 1867, pp. 89, 90.

† 7 U. S. Statutes at Large, p. 478; Report of the Indian Commissioner, 1859, p. 163.

‡ Report of Secretary of Interior, 1869, p. 71.

§ 7 U. S. Statutes at Large, p. 504.

¶ 7 U. S. Statutes at Large, p. 530.

** 7 U. S. Statutes at Large, p. 548.

†† 7 U. S. Statutes at Large, p. 511.

‡‡ Revised Indian Treaties, pp. 710-715; 7 U. S. Statutes at Large, p. 533.

treaties so often were, to our national discredit, in a rather questionable manner; for, instead of dealing with the tribe in its authorized council, the federal agents conferred with individual chiefs. Notwithstanding, the senate ratified the treaty in due season, and McCoy was instructed to lay out a reservation in the Marais des Cygnes valley. The Indians occupied it for about ten years and then moved northward in 1847-'48.

The second Pottawatomie reserve was situated in one of the most fertile districts of Kansas. It was a part, and that the most eastern, of the old Kansa reserve. Its eastern boundary lay two miles west of Topeka and sixty-two miles west of the Missouri river.* A few weeks before the arrival of the Pottawatomies some Jesuits established St. Mary's Mission † almost in the center of the reservation, and the Indians very conveniently made it the nucleus of their new settlement. The Pawnees, who had agreed with the United States in 1834 ‡ to retire north of the Platte, resented the presence of the Pottawatomies and continually committed depredations upon them. In 1850 a regular war § was declared. Henceforth the immigrants were left in undisturbed possession. ¶

NEW YORK INDIAN.

The treaty of Buffalo creek, negotiated in 1838, attempted to provide a home in Kansas for the Senecas, Onondagas, Cayugas, Tuscaroras, Oneidas, St. Regis, Stockbridges, Munsees, and Brothertowns, who had been the victims of unscrupulous speculators. The history of the affair goes back to the compact of 1786, which conceded to Massachusetts a preemptive right, based upon charter grant, to certain lands in western New York.** Such a preemption right signified nothing more nor less than the privilege of buying out the Indian occupants; and after passing through various hands it was transferred to the Ogden Land Company.

In the decade succeeding the war of 1812, the holders of the preemptive right

* *St. Mary's Times*, October 25, 1877.

† FATHER CHRISTIAN HOECKEN, a Catholic missionary to the Kickapoos, visited the Pottawatomie Indians on Sugar creek, Kansas, in 1837. The following year he established a permanent mission among them. He appears, from the records of St. Mary's Mission, to have accompanied one of the first parties of Pottawatomies to their new reservation on the Kansas river, in the fall and winter of 1847-'48. Mr. W. W. Cone, in his "History of Shawnee County," under "Auburn Township," says: "A mission was established by the Catholics in the fall of 1847 for the Pottawatomie Indians at the junction of the east, middle and west branches of the Waka-rusa river. . . . About twenty log cabins were built here by them. In the spring following the Indians found that they had located by mistake on Shawnee lands, and, as they could not draw their annuity until they were on their own land, they moved to the north side of the Kaw river, near the center of the reservation, and established a mission there. . . . On the 12th day of August, 1854, Mr. J. W. Brown purchased of the Shawnees some of these cabins and their right to a part of the land."—ED.

‡ 7 U. S. Statutes at Large, p. 448.

§ "From the time of the arrival of the Pottawatomies at their new home they lived at peace with the government, and had no difficulty with the neighboring tribes, except in 1850, when, on account of frequent depredations committed by the Pawnee tribe, the Pottawatomies declared war against them. The first engagement between the warriors of the two tribes was on the east side of the Blue river, near the Rocky Ford, and on territory now included within the limits of Pottawatomie county. In this engagement the Pottawatomies were victorious, and compelled the Pawnees to retreat west to Chapman creek; here the Pawnees rallied, and here was fought a fierce and bloody battle, in which some of the Pottawatomie braves displayed great valor and won for themselves great fame as warriors among the members of their tribe; one of the braves, Now-quah-ge-zhick, particularly distinguished himself by daring feats of bravery and the number of scalps of the enemy which he took in the battle. The Pottawatomies came off victorious, and forever after lived in peace."—James S. Merritt, in *Wamego Tribune*, June 6, 1879.—ED.

¶ *The Westmoreland Recorder and Period*, January 7, 1886.

** *Journal of Congress*, 1787, vol. 4.

conspired with speculators, political demagogues and a few traitorous chiefs to dispossess the New York Indians by inducing their removal to Wisconsin. A personal appeal was made to President Monroe; yet there is no evidence that either he or Congress sanctioned the matter. Nevertheless, it was represented to the unsuspecting Indians that they might purchase of their own accord a reservation in the neighborhood of Green Bay. They did so, but their title was soon contested, on the ground that Indians could not purchase in their own right.

An adjustment of the dispute over the Green Bay lands was amicably sought for in the negotiation of the treaty of 1838; but speculators, concerned only with their own selfish interests, managed to defeat the ends of justice. They succeeded in bribing the Massachusetts commission and the United States agents to make *removal* a prominent feature of the treaty. The main body of the Indians stubbornly resisted, but the chiefs again proved perfidious. Indeed, a most suggestive fact was brought out in the later senate speeches on ratification. It was then shown that every chief that had knowingly signed the document to remove his people westward held a private contract with the Ogden Land Company. Such as had signed it unknowingly were, at the time, too intoxicated to need further bribe. Van Buren declared the whole transaction "a most iniquitous proceeding." The treaty went to the senate and was there bitterly contested. It was finally ratified, through the casting vote of the vice president, on a day when many of the really honest friends of the Indians happened to be absent, March 25, 1840.*

President Van Buren proclaimed the treaty of Buffalo creek in due season, but the Indians were not satisfied. "Fearful and sullen, they refused to leave Wisconsin. The action of President Jackson with the Seminoles of Florida could not be repeated with the Senecas of New York. They could not be forcibly transported. Investigations in New York, in Massachusetts, and in Congress, largely stimulated by the Society of Friends, laid bare the whole plot, and threatened to bring about the amendment of the treaty, which, by the way, was never constitutionally ratified in the Council of the Six Nations. As the title of 'innocent purchasers' from the Ogden Land Company seemed to be imperiled, a compromise was effected in the shape of the supplementary treaty of 1842." Thereupon the territory in New York, secured under false pretenses from the Senecas and their allies at the time of their removal to Green Bay, was in part restored to its rightful owners, who, in turn, agreed to exchange the Wisconsin purchase for 1,874,000 acres west of Missouri.

The New York Indian reserve was laid off in rectangular form, north of the Osage and the Cherokee neutral lands; but in years that followed only thirty-two persons applied for patents for the 320 acres which the treaty provided should be given on application to every individual. This gave rise to a very interesting lawsuit. A proviso in the treaty had stipulated that "should the Indians not agree to remove within five years, or such time after the ratification of the treaty as the president might determine upon, they should forfeit all right and interest in and to the reservation." In 1860 President Buchanan declared the unoccupied reserve public domain and threw it open to settlement. The Indians protested, and preferred an indemnity claim against the federal government. The matter was pending in Congress for nigh upon twenty years. Finally, under the provisions of the Bowman act, March 3, 1883,† a resolution was adopted referring the case to the court of claims to find the facts. Then the Indians, upon the basis of those findings, demanded payment. In January, 1893, Congress

* Congressional Record, January to April, 1840; 7 U. S. Statutes at Large, pp. 550-561.

† 22 U. S. Statutes at Large, pp. 485, 486.

passed an act authorizing the court of claims to render judgment upon the facts found,* with the right of appeal to the United States supreme court resting in both parties. Thereupon the court of claims dismissed the petition, or, in other words, decided in favor of the government. In 1898 the Indians appealed the case, with the result that the decision of the lower court was reversed and their own claim allowed.†

MIAMI.

In 1839 the United States agreed‡ “to possess the Miami Indians of and to guarantee to them forever a country west of the Mississippi river, to remove to and settle on, where the said tribe [might] be so disposed.” A second treaty,§ confirming the grant of the first, was made in 1841. “In 1846, eight hundred Miamis settled on Sugar creek, in the southeastern part of Miami county. Their reservation, estimated to contain the equivalent of their old lands in Indiana, or about 500,000 acres, was situated west of the Missouri line and between the New York Indian and Wea-Piankeshaw lands. In 1847 a second emigration from Indiana took place, and three hundred souls were added to the Sugar Creek settlement. The following year five hundred recrossed the Mississippi, and the federal government acquiesced in their departure. The settlement in Kansas was then moved from Sugar creek to the Marais des Cygnes.¶

SAC AND FOX OF MISSISSIPPI.

In 1841, in exchange for about three-fourths of Iowa, the Sacs and Foxes of Mississippi** were granted a reservation of thirty miles square, west of the Chipewas. Their agreement with the United States simply specified that “the president should assign them and their descendants a permanent and perpetual residence upon the Missouri river or some of its waters.” They came to Kansas in 1845, numbering less than a thousand souls. “At first they lingered on the banks of the Wakarusa, and later established themselves in their wickiups near Quenemo.”††

WYANDOT.

In 1848 the Wyandots, reputed nephews of the Delawares, urged the United States government to purchase for them from their uncles a small tract of land which lay in the fork of the Kansas and Missouri rivers. It was part of the Delaware reserve; and, in compliance with the Wyandot plea, Congress adopted‡‡ a resolution authorizing its transfer.§§ This small reservation — only thirty-nine

*27 U. S. Statutes at Large, p. 426.

†30 Court of Claims Reports, 413; 170 U. S. 1, 614; 173 U. S. 964; 18 Supreme Court Reporter, 531, 735; 19 Supreme Court Reporter.

‡7 U. S. Statutes at Large, p. 569.

§7 U. S. Statutes at Large, p. 582.

¶E. W. Robinson, History of Miami County.

**7 U. S. Statutes at Large, p. 596.

††James Rogers, History of Osage County, in Edwards's Atlas; Report of Indian Commissioner, 1859, p. 152.

‡‡9 U. S. Statutes at Large, p. 337.

§§By the treaty of 1842 the Wyandots ceded their lands in Ohio and Michigan to the United States, and were promised in return “a tract of west of the Mississippi, to contain 148,000 acres.” This land, they understood, was to be located on the Kansas river, but upon examination “it was found, however, that there was no land in the vicinity in which they desired to locate which did not belong to some of the tribes which had previously been removed. On December 14, 1843, a purchase of 23,040 acres of land was made from the Delawares. This tract included the present town of Wyandotte.”—Andreas, 1883, p. 1227. By treaty of 1850, the government made final settlement with the Wyandots for the unfulfilled provisions of the treaty of 1842, one item of which was a sum “to pay and extinguish all their just debts, as well as what is now due to the Delawares for the purchase of their lands.” The Wyandots emigrated to Kansas in July, 1843.

sections in extent — was not, however, the only Wyandot land in Kansas, although it was all that the tribe held in common. Such other lands as the Wyandots possessed in the trans-Missouri region have been very significantly designated the "Wyandot floats," and the meaning of the term can best be understood if their history be told. By the treaty of 1842,* certain members of the Wyandot tribe were given the right to choose 640 acres of public land apiece anywhere west of the Mississippi. These preemptions, or "floats," were located very generally in Kansas. They were extremely convenient for town sites; because they could be acquired without the trouble and expense of complying with the ordinary preemption laws. This would not have been possible had they been held by the usual occupancy title. It is interesting to know that Lawrence was located on the Robert Robertaille† float, and West Lawrence on the Joel Walker float. Topeka, Manhattan and Emporia were also built upon Wyandot floats. Some of the floats were illegally located on the Shawnee reserve prior to July 9, 1858, at which date that land was publicly thrown open to settlement.‡

MUNSEE.

The last Indian reservation to be laid out in Kansas was the Munsee, a tiny subdivision of the Delaware, provided for by one of the Manypenny treaties of 1854.§ It consisted of four sections of land situated near the city of Leavenworth, and is now the site of the Old Soldiers' Home and of Mount Muncie Cemetery. The fathers of the emigrants, perchance even they themselves, were among the survivors of the terrible Gnaden Hutten massacre; and the story of their wanderings in search of the Kansas refuge for Indian exiles reads like a romance of the olden time.¶ But they came to Kansas too late to enjoy peace, and after a sojourn of four years sold their reservation, under the sanction of an act** of Congress, to A. J. Isacks.

II.—EXTINCTION OF THE RESERVATION TITLES.

Scarcely were the emigrant tribes fairly established on their respective reservations when a movement arose in the political circles at Washington to disestablish them. So soon had the nation forgotten its sacred guaranty that Kansas should be an Indian territory forever, and that the reservation lands should belong to the red men "as long as the grass should grow and the water should run."

One important objection to the passage of the Kansas-Nebraska bill, and an objection heretofore overlooked, or at least unremarked, was that the territory, the organization of which was in contemplation, could not be legally appropriated until the Indian occupancy title had been extinguished. This was an objection more fundamental in its nature than any other presented, because it involved the faith of the nation as that faith had been most solemnly expressed in treaties. It is said, and doubtless with truth, that, among the many occasions for the repeal of the Missouri compromise, was the fear that, unless something were done, and that quickly, the broad plains lying east of the Rockies would, as a permanent Indian reservation, be forever closed to civilization.

It is a matter of common belief that, prior to 1854, Kansas was untraversed

*7 U. S. Statutes at Large, app. v, p. 608.

† This spelling accords with the U. S. Revision of Indian Treaties, 1873, p. 1020. Connelley, in his Provisional Government of Nebraska, p. 420, spells the name "Robitaille."

‡ *McAlpine v. Henshaw*, 6 Kan. 176; *Walker v. Henshaw*, 83 U. S., 16 Wallace, 436. Another instructive case on Wyandot floats is *Gray v. Coffman*, 3 Dillon, 393. A complete list of the Wyandot floats may be found in Senate Documents, 1857-'58, vol. 2, pp. 274, 275.

§10 U. S. Statutes at Large, p. 1051.

¶ Sen. Docs. 1839-'40, vol. 2, No. 355; Report of Indian Commissioner, 1857-'58, No. 524.

**11 U. S. Statutes at Large, p. 312.

by white men. This is a mistaken idea. Aside from regularly organized exploring expeditions, various things, such as trade routes, mission stations, military posts, and the Mexican war, had enabled the hardy pioneer to become more or less familiar with the "Great American Desert." Up to the time of Mexican independence the hostility of the Spaniards was a great obstacle to commercial intercourse with the Southwest. None the less, from the beginning of the nineteenth century the trade along the Santa Fe trail was a highly profitable one, especially after a right of way had been secured from the Great and Little Osages. The Mexican war caused a temporary break, but peace brought renewed activity, and among the many material advantages derived from that most unjust of American wars, acquaintance with Kansas was certainly not the least. The soldier was succeeded by the California gold-seeker, and the "forty-niner," in his turn, by the Mormon enthusiast. Their passing through was the signal for the Indian to decamp. He lingered on the prairie only just long enough for the government to give a legal coloring to his expulsion and then was again an exile.

Although it was a well-understood thing that the trans-Missouri region was to belong exclusively to the Indians, the very coming of the red men induced the coming of the white. Coexistent with the establishment of the Indian reservation was the establishment of the military post. A cantonment on the present site of Fort Leavenworth was erected in 1827, and by the spring of 1854 Kansas was wholly under military supervision. It would hardly be fair to say that the soldiers were brought here to keep the Indians in subjection, although, as the Indian bureau was then a subdivision of the war department, it would be a natural supposition. The excuse for the soldiers' presence was primarily the protection of the frontier, and secondarily the maintenance of peace among the widely differing tribes. Civilians followed in the wake of the army; for white men cultivated the military reserve, white men conducted the Indian trade, and white men presided over the Indian schools and missions. Furthermore, Kansas was the starting-point for all expeditions that followed the Oregon trail. It was the connecting link between the far Northwest and the far Southwest. Is it any wonder, then, that steps were taken in the early '50's to undo what had been done in the '30's?

The first indication that the idea of breaking faith with the Indians had gained ground at Washington, and that the administration was favorable to it, was seen in the visit which George W. Manypenny paid to the emigrants in the winter of 1853-'54. If, as Indian commissioner, his sole object was to negotiate treaties of cession, he succeeded most admirably, and during the months subsequent to May, 1854—at which time the Douglas measure became a law—President Pierce was able to proclaim treaties that his agent had successfully consummated with the Otoes and Missourias, the Delawares, the Kickapoos, the Iowas, and the Sacs and Foxes of Missouri.

OTOE AND MISSOURIA.

The first treaty of secondary Kansas cessions to be ratified after the passage of the organic act* was that to which the Otoes and Missourias† were a party. These Indians were native to northeastern Kansas and southeastern Nebraska; but, being constrained by the treaty of 1834‡ to remain north of the Little Nemaha

* 10 U. S. Statutes at Large, p. 277.

† In 1723 Bourgmont located the Missourias on the river of that name, thirty leagues below the mouth of the Kansas. Soon afterwards the tribe was greatly reduced in numbers by war and smallpox, and the majority of the tribe took refuge with the Otoes in Nebraska, and were living in a village near the Otoes on the Platte river, a few miles above its mouth, in 1842.

‡ 7 U. S. Statutes at Large, p. 429.

river, they would not be entitled to consideration in this thesis were it not for the fact that their reservation, as laid out by the government, extended a short distance south of the fortieth parallel. In the winter of 1853-'54, George W. Manypenny gained their consent* to the relinquishment of all their territory west of the Missouri river except a strip ten miles wide and twenty-five miles long which was situated on the waters of the Big Blue. This cession was conditional upon the payment of annuities. For several years thereafter the Otoes and Missourias lived quietly upon their diminished reserve; but finally, as might have been expected, would-be settlers staked out illegal claims. Complaints from the Indians amounted to nothing until, by act of Congress, March 3, 1881,† the whole band was given permission to remove to the Indian Territory.

In recent years the quieting of the title to the Otoe and Missouri lands in Kansas and Nebraska has caused considerable discussion. The congressional enactment just mentioned arranged for an auction sale of the diminished reserve; and preliminary thereto the government appraised it. The estimated value was \$256,000. Cattlemen, anxious to prevent *bona fide* settlement, took an active part in the auction; and, by means of "straw bids," raised the price far above the means of the settlers and above the appraised value. The sale was set aside as fraudulent and nearly all the participants were sentenced to a term in the Penitentiary.

Later on, a second auction sale of the Otoe and Missouri lands was provided for, the result of which can best be understood in the light of later events. The settlers, fearing to be outbid a second time, and resting under the impression that they had the verbal guaranty of the land-office commissioner that, no matter what they might bid, the lands would be assured to them at the appraised value, offered \$516,000; but when the Indians insisted upon the payment of that sum, the settlers cited the promise of the commissioner in order to free themselves from the obligation. For nearly twenty years the settlers lived upon the lands, tax free and rent free, without paying a single cent of either principal or interest to the Indians, who clamored for the payment of the debt. Finally the settlers had the impudence to ask Congress to effect a compromise, and, in the end, the matter was adjusted to their satisfaction.‡

DELAWARE.

The Delaware reserve, lying near the Missouri line and north of the Kansas river, covered a region so productive and so advantageously situated that it proved an early prey to the squatter. A treaty was proclaimed July 17, 1854.§ It provided for two cessions, the one conditional, the other unconditional. The unconditional cession comprehended the transfer of the "outlet" to the general government for a cash payment of \$10,000. The conditional cession was a conveyance of lands in trust, and included all of the reservation proper excepting the thirty-nine sections that had already been sold to the Wyandots, four sections that were about to be sold to the Munsees, and a tract that was to be retained for the use of the tribe. The last named constituted the "diminished reserve" and, "extending westward forty miles from the western boundary of the Wyandot lands, was ten miles wide at its western extremity." A clause, said to have been inserted at the suggestion of Senator David R. Atchison, in order to prevent men too poor to hold slaves¶ from possessing any of the land,

* Revised Indian Treaties, pp. 633-641; 10 U. S. Statutes at Large, p. 1038, *et passim*.

† 21 U. S. Statutes at Large, pp. 380, 381.

‡ 31 U. S. Statutes at Large, p. 59.

§ Revised Indian Treaties, pp. 340-345; 10 U. S. Statutes at Large, pp. 1048-1052.

¶ Webb Scrap Books, 1: 60, Kansas Historical Library.

stipulated that as soon as the trust lands had been surveyed they should be put up at public auction. Such as remained unsold were to be "subject to private entry, and, after three years, graduated in price until all had been disposed of."

The Delaware trust lands covered a part of the counties of Leavenworth and Atchison, in addition to about one-half of Jefferson. By order of the Interior Department, their sale was advertised to begin at Fort Leavenworth November 17, 1854, to be limited at first to the land lying east of ranges 18 and 19, and to continue until December 13, 1856. The land west of those two ranges was sold at Osawkie* in the summer of 1857.

The approaching first sale† produced great excitement, owing to a misconception of the real nature of Indian trust lands, which are not in any legal way disencumbered of the occupancy title, but only temporarily conveyed to the general government, in order that they may be sold "upon the account and for the benefit" of the reservees. The legal title, domain and jurisdiction are in the United States, to be sure; but the equitable beneficiary interest remains in the original owners. Contrary to this view, the would-be settlers were inclined to regard the trust lands as public domain, and therefore immediately subject to preemption under existing laws. They also professed to believe that the sixteenth article of the Delaware treaty, which extended the application of the act of March 3, 1807,‡ had been nullified by the act of July 22, 1854,§ which had rendered Kansas and Nebraska subject to the operation of the preemption law of 1841.¶ This gave rise to a dispute over the relative importance of a treaty and a statute. It was entirely irrelevant, however, because the congressional enactment in no sense contemplated the preemption of territory in which the Indian tribes held a reserved interest.

For several weeks prior to the auction, the Delaware trust lands were the scene of dire confusion. At first log cabins, and later such rude contrivances as four crossed sticks, were used to mark the staking out of claims. Meanwhile the squatters beguiled the time with riotous living. They even gambled away the fertile farms that, for them, as yet lay only in the bright land of prospect. The greed for territory was contagious. Army officers and territorial officials shared in the general uproar, and, as later investigations into their conduct** divulged, they even connived at every possible invasion of Indian rights.

In 1860 another treaty was concluded with the Delawares, whereby provision was made for a portion of their diminished reserve†† to be allotted in severalty, not only to members of the tribe at the time residing in Kansas, but likewise to some absentee Delawares dwelling with the southern Indians, if they would return to their own people. Until they did so return, the land intended for them was to be held in common by the resident Delawares. The treaty further provided that the Leavenworth, Pawnee & Western Railway Company might have the privilege of buying what remained of the diminished reserve. The conditions under which the railroad company was to have the land were not complied with, and, in 1861, it was found necessary to make other arrangements with the same corporation.‡‡ A sale of 223,890.94 acres was finally effected; but a note-

* Historical Society Collections, v. 5, pp. 367, 375.

† Andreas's History of Kansas, pp. 419-422.

‡ 2 U. S. Statutes at Large, p. 445. § 10 U. S. Statutes at Large, p. 310.

¶ 5 U. S. Statutes at Large, pp. 456-460.

** House Ex. Docs., 33 Cong., 2d session, No. 50.

†† Revised Indian Treaties, pp. 345-350; Andreas's History of Kansas, p. 500; 12 U. S. Statutes at Large, pp. 1129-1134.

‡‡ Revised Indian Treaties, pp. 350-362; 12 U. S. Statutes at Large, pp. 1177-1185.

worthy circumstance connected with it illustrates remarkably well the advantage so often taken of the too-trusting Indians. The railroad company paid down no money whatever, but gave a mortgage on a part of the land to secure to the poor Delawares the payment of the whole.

In 1866 the same Indians, having become weary of living a restricted life on their separate allotments, resolved to emigrate to the Indian Territory and resume the old life in common. Accordingly a treaty * was drawn up by which they ceded in trust all of their remaining Kansas lands. The secretary of the interior was authorized to sell the same, if possible, to the Missouri Pacific railroad. The sale was made the following year; but in the meantime, "in order to vest every future holder of the real estate with a government title, all the lands were deeded in trust to Alexander Caldwell, who gave a deed to each Indian holding an allotment under the treaty of 1860. The lands then remaining unsold and unoccupied were sold at \$2.50 per acre to the railroad syndicate—Thomas A. Scott, of Pennsylvania, Thomas L. Price, L. T. Smith, Alex. Caldwell, Oliver A. Hart and others to the number of thirteen."† Thus abruptly was the Delaware history in the trans-Missouri region brought to a close.

KICKAPOO.

By one of the so-called Manypenny treaties of 1854,‡ the Kickapoos ceded unconditionally to the general government the larger portion of their reservation, "which seems to have occupied parts of Brown, Atchison and Jackson counties." The cession comprised the whole of the tract of 1200 square miles conveyed to them in 1833, with the exception of 150,000 acres in the western part, at the head of the Grasshopper river.

Several years later another treaty, negotiated in 1862, and ratified with an important senate amendment in 1863,§ provided for the disposition of the Kickapoo diminished reserve. Every chief signing the treaty received 320 acres, every head of a family 160 acres, and every other person in the tribe forty acres; but only those sufficiently advanced in civilization and desirous of severing their connection with the main body received an allotment in severalty. The others received their shares in an undivided quantity, and held the tract in common by the same tenure as the entire tribe had held the original reservation. Upon the president was conferred the discretionary power of granting to the allottees a title in fee simple whenever they should be "sufficiently intelligent and prudent to control their own affairs." The land, when conveyed in fee simple, could be alienated by the Indians and taxed by the state.

An additional provision was made in the Kickapoo treaty of 1863 for the setting aside of 1120 acres for miscellaneous purposes, and of forty acres for each Kickapoo absent with the southern Indians, provided he returned to Kansas within one year from the ratification of the treaty. The remaining Kickapoo lands were ceded in trust to the United States, for the purpose of selling them to the Atchison & Pike's Peak Railroad Company, whose agents, it is said, practically drafted the treaty. At any rate, they went around among the Indians and secured individual marks, instead of trusting to a possible ratification in the general council of the tribe. In 1865 the United States succeeded in selling 123,832.61 acres, lying mostly in Brown county, to the railroad. Almost immediately the lands were advertised, and, as "all time purchasers were required to improve one-tenth each year, the reserve was soon dotted over with farms."

* Revised Indian Treaties, pp. 362-369; 14 U. S. Statutes at Large, pp. 793-798.

† Biographical and Historical Memoirs of Wyandotte County, p. 154.

‡ Revised Indian Treaties, pp. 443-447; 10 U. S. Statutes at Large, p. 1078.

§ Revised Indian Treaties, pp. 447-454; 13 U. S. Statutes at Large, p. 623.

The Kickapoos still own a much diminished reserve in Kansas. Ever since allotment in severalty was first permitted, the Indians have been given a personal interest just as quickly as their progress has seemed to justify it, so that at the present time only 6468 acres remain unallotted. That tract is held in common. In 1896-'97 the commissioner of Indian affairs reported that out of it a lease of 5828 acres had been made in favor of George W. Leverton for a period of five years. The remaining 640 acres are temporarily reserved for school purposes.*

IOWA, SAC AND FOX OF MISSOURI.

The cessions made in 1854 by the Iowas† and the Sacs and Foxes of Missouri‡ comprised land lying almost entirely in Nebraska, and are therefore not entitled in this paper to a detailed description. Suffice it to say, that the Iowas ceded a large acreage in trust, which, embracing some of the best lands in Brown county, were sold at Iowa Point from June 5 to June 9, 1857. They retained a diminished reserve which, with the exception of 16,000 acres, they ceded‡ nine years afterwards to the general government for the use and benefit of the Sacs and Foxes of Missouri, who at the same time made a new disposition of the fifty sections which the tribe had retained in common under the treaty of 1854. They set aside one section for miscellaneous purposes and one and one eighth sections for various individuals, 160 acres for Joseph Tesson and for each of three chiefs, and eighty acres for George Gomess. At the present time nearly all the Sacs and Foxes of Missouri have taken allotments and have received their head rights. Their reservation in consequence is reduced to about 8000 acres, of which perhaps one-third lies north of the fortieth parallel.

MIAMI.

Miami county, Kansas, bears a most appropriate name, for, of all the Indian tribes that helped to colonize it and the surrounding country, the Miami was decidedly the most important, both in point of numbers and of influence.§ After the organization of Kansas Territory, white people, as has been already intimated, encroached to such an alarming extent upon the Indian lands that the federal government was forced, with unseemly haste, to extinguish the occupancy title. Naturally the lands adjoining Missouri were the first to be disencumbered and preempted. The Miami reservation, easily accessible to the South, was coveted almost as much as the Delaware and the Shawnee. It was soon seized by squatters, and in order to allay the apprehension of the Indians, the federal government purchased the greater part of it for \$200,000, in August, 1854.**

The reservation contained originally about 500,000 acres. The Miamis kept 72,000 acres and sold the rest. The tract reserved was to be apportioned as follows: 640 acres to be set aside for educational purposes, 200 acres to be assigned in severalty to every member of the tribe, and the residue, about 20,000 acres, to be held for the time being in common. The treaty provided, likewise, that the president "might cause patents to issue to single persons and to heads of families for the lands selected by or for them, subject to such restrictions respecting leases and alienation as the president or Congress of the United States" might "impose, and the lands thus patented" should "not be liable to levy, sale, execution,

* 13 House Documents, p. 39.

† Revised Indian Treaties, pp. 403-407; 10 U. S. Statutes at Large, pp. 1069-1073.

‡ Revised Indian Treaties, pp. 758-762; 10 U. S. Statutes at Large, pp. 1074-1077.

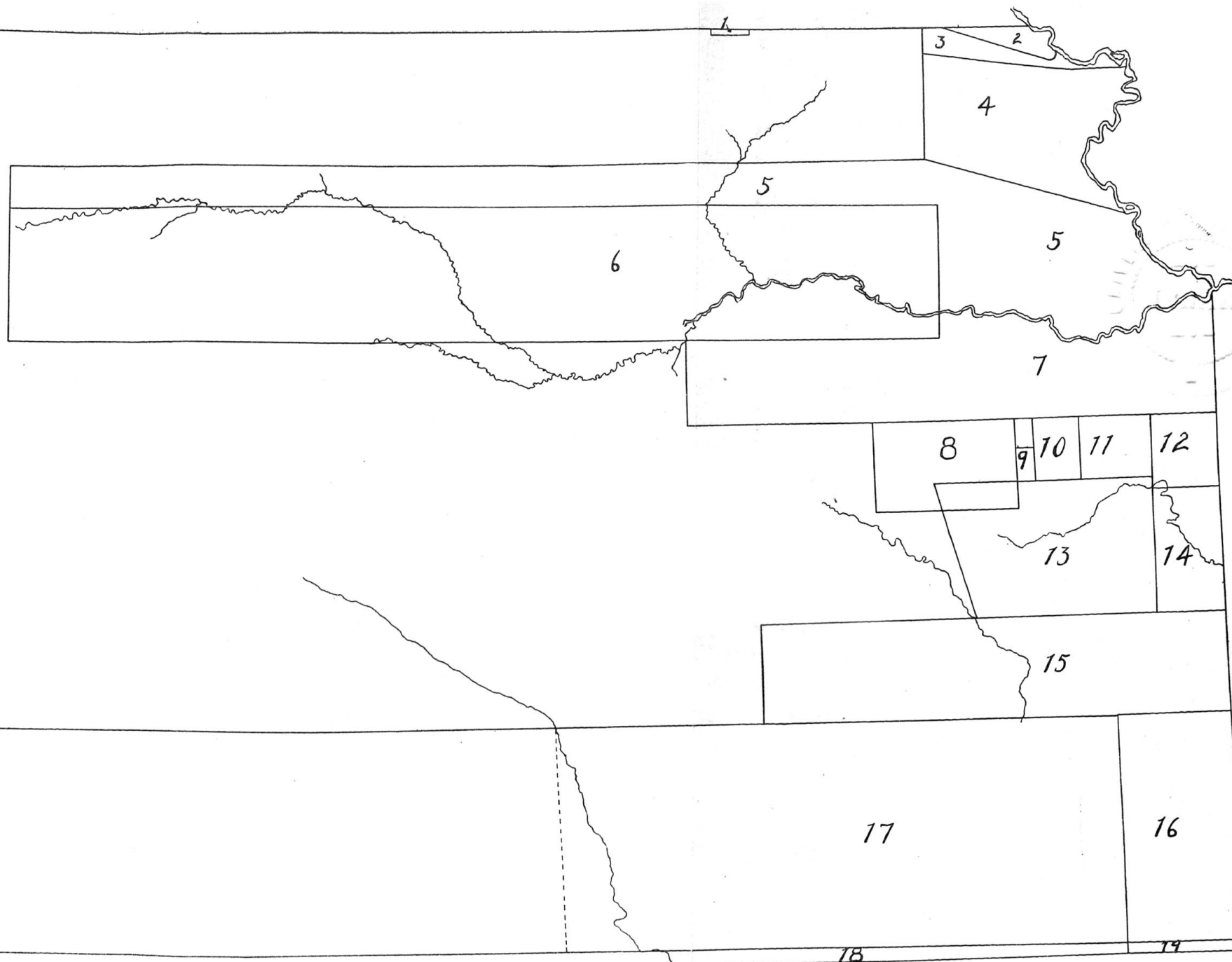
§ Revised Indian Treaties, pp. 777-781; 12 U. S. Statutes at Large, pp. 1171-1175.

¶ *Miami Republican*, March 21, 1879.

** 10 U. S. Statutes at Large, pp. 1093-1100.

INDIAN RESERVATIONS
In territory included in Kansas, 1846.

1. OTOES AND MISSOURIAS.
2. IOWAS. 1837
3. SACS AND FOXES OF MISSOURI. 1837.
4. KICKAPOO RESERVE. Established under treaty of 1833.
5. DELAWARE RESERVE AND OUTLET. Established under treaty of 1831.
6. KANSAS RESERVE. Established under treaty of 1825.
7. SHAWNEE RESERVE. Established by treaty of 1825
8. SACS AND FOXES OF MISSISSIPPI. 1843.
9. CHIPPEWA RESERVE. 1830.
10. OTTAWA RESERVE. 1832.
11. PEORIAS AND KASKASKIAS. 1833.
12. WEAS AND PIANKESHAW. 1833.
13. POTTAWATOMIE RESERVE. Established under treaty of 1837.
14. MIAMI RESERVE. 1839 and 1841.
15. NEW YORK INDIAN LANDS. Conveyed under treaty of 1838.
16. CHEROKEE NEUTRAL LANDS. Conveyed under treaty of 1835
17. OSAGE RESERVE. Established by treaty of 1825. (The western boundary, originally the dotted line, was arbitrarily extended by the surveyors to the old Mexican line.)
18. CHEROKEE STRIP. Conveyed under treaty of 1835.
19. QUAPAW STRIP. 1834.



or forfeiture; provided, that the legislature of a state within which the ceded country" might be thereafter embraced might, "with the consent of Congress, remove such restrictions." In 1873 Congress did remove the restrictions in cases where title had legally passed to white citizens.*

In the later '60's, the anti-Indian feeling in Kansas was exceedingly bitter. Utterly regardless of the fact that the land had only a short time before been assured to the tribes in perpetuity, settlers viewed their presence as an intrusion. Such presumption was excusable only when due weight was given to the atrocities of the Indians of the plains, and now we know that those same atrocities were often excited by the barbarous cruelty of the troops. To allay the excitement, the federal government opened up negotiations with various Kansas tribes. The result was the omnibus treaty of 1868. Thereupon the Miamis agreed to dispose of their remaining lands west of the Missouri river and move to the Indian Territory. They selected a place on Spring river and settled there in 1871.†

A congressional act approved March 3, 1873,‡ arranged not only for the sale of their school-section and unallotted lands, but also for the abolition of their tribal relations and the union with the Wea and other Indians§ of such as did not wish to become citizens of the United States. A commission appointed under this act¶ appraised the Miami lands, and its report was duly approved by the Department of the Interior. The unoccupied lands, including the school sections, were advertised for sale February 20, 1874, and sold under sealed bids.**

WEA, PEORIA, KASKASKIA, AND PIANKESHAW.

By 1854 the Wea, Peoria, Kaskaskia and Piankeshaw Indians had become confederated as a single tribe, and one of the Manypenny treaties provided for a cession in trust of the greater part of their consolidated reserve.†† Certain lands were withheld from the cession; namely, one section for the American Missionary Society, ten sections for a reserve in common, and more than enough besides to give every individual of the united bands a quarter-section allotment. Selections to the allottees were approved by President Buchanan August 28, 1858, and the land over and above the allotments was sold to the highest bidder for cash. The sales of some of the trust lands were approved July 1, 1859.

The confederated Indians, like their neighbors, the Miamis, figured as parties to the omnibus treaty of 1867-'68.‡‡ By its terms provision was made for admittance to citizenship, for removal to the Indian Territory, and for the final disposal of Kansas land. A schedule attached to the document throws considerable light upon Indian methods. In the first place it shows that the ten-section reserve—which in reality contained only nine and one-half sections—was sold to actual settlers for cash; and in the second place, that the red men were often as accomplished in the art of trickery as the white. In the final division of the land, minors were often counted as adults with large families. One of the minors was Kimolaniah, the son of an Indian interpreter, Baptiste Peoria, who sold the land of Kimolaniah and of Kimolaniah's reputed children, under the pre-

* 17 U. S. Statutes at Large, p. 417.

† *Miami Republican*, March 21, 1879; Robinson's History of Miami County.

‡ 17 U. S. Statutes at Large, pp. 631-635.

§ Report of Indian Commissioner, 1880.

¶ Report of the Indian Commissioner, 1873, pp. 18, 200.

** Report of the Commissioner of Indian Affairs, 1874, p. 19.

†† Revised Indian Treaties, pp. 426-432; 10 U. S. Statutes at Large, pp. 1082-1087

‡‡ Revised Indian Treaties, pp. 839-852; 15 U. S. Statutes at Large, pp. 513-529.

tense that the owners had died and that he was the heir at law. Many lawsuits grew out of the attempted fraud.

SHAWNEE.

Perhaps the most important of the Manypenny treaties ratified in 1854* was that by which the Shawnees surrendered their immense reserve of 1,600,000 acres and received one-eighth of it back again for distribution among the tribe. The re-ceded tract lay almost wholly within the limits of Johnson county, and its nearness to the Missouri border made it an inevitable prey to illegal settlement. Voluntary allotment in severalty was a prominent feature of the treaty, and the division of the diminished reserve was to be made upon the basis of 200 acres for every individual, including absentee Shawnees, Shawnees by adoption, females, minors, and incompetents. Such as preferred it might, as communities, receive their portion in an undivided quantity; and, at the time of the cession, the followers of Longtail and of Black Bob seemed disposed to profit by the arrangement.

Before proceeding to discuss the distribution of the Shawnee land, it might be well to show how the simple fact of receding to the tribe a one-eighth part of the original reserve produced trouble for the tax collector. It all turned on the question whether or not allotment in severalty constituted an extinguishment of the Indian title. The local authorities of Johnson county were disposed to think that it did, and that, therefore, the allotted lands of the Shawnees were subject to state taxation. The holders refused to pay the taxes, however, on the ground that the land was still Indian, and because, under the act of admission,† the state had bound itself never to interfere with the primary disposal of the soil.

The case came before the courts for settlement in 1866, and the district judge for Johnson county rendered a decision adverse to the Indian claim. The Indians appealed the case by petition in error to the Kansas supreme court, and it was there argued that the treaty of 1854, although not expressly stating the fact, had, by necessary implication, invested the individual Shawnees with an absolute and complete title in fee simple. In other words, it was held that the cession of the entire tract had been a surrender of the usufruct, or ordinary occupancy title, and that the retrocession had conferred a new title upon the grantees which was not merely possessory, inchoate, and non-transferable, but of exactly the same legal value as that held by the United States and its citizens. Again the case was appealed on a writ of error, but the second time to the United States supreme court.‡ The result was the decision of the state court was reversed, its construction of the treaty of 1854 being altogether untenable.

In the winter of 1856-'57, Lot Coffman, a surveyor, was appointed by the federal government to take a census of the Shawnees and to distribute the land in accordance therewith. He found that the Longtail families, comprehending twelve members, now preferred allotments; but that the Black Bobs were still true to their original purpose. He therefore set aside for them, in the present Aubrey and Oxford townships of Johnson county, 33,392.87 acres, approximately the equivalent of 200 acres for each of 167 persons. This tract, lying southeast of Olathe, has ever since been known as the Black Bob land, and has been, as we shall presently see, the occasion of much legal and political controversy.

The treaty of 1854, in making provision for the absentee Shawnees, who had gone down to dwell with the southern Indians, stipulated that their individual grants of 200 acres each should be conditional upon their return to Kan-

* 10 U. S. Statutes at Large, pp. 1053-1063.

† 12 U. S. Statutes at Large, p. 127.

‡ 5 Wallace, 737.

sas within the space of five years, at the expiration of which time all unassigned lands were to be sold. As it happened, the absentees did not return in due season; so, in August of 1863, President Lincoln issued a proclamation to the effect that continued absence and non-affiliation with the tribe had rendered their claim nugatory. The lands, which had already been seized, as usual, by squatters, were ordered to be sold at the land-office in Topeka. The sale did not take place immediately, however. In fact, it was postponed indefinitely, because the squatters—the men most interested in the passing of the Shawnee title were, for the most part, absent in the United States army. After the war was over, Congress enacted a law, *April, 1869, authorizing permanent and legitimate settlement.

The main body of the Shawnees took their land in severalty; but the process of allotment extended through a series of years; and long before some of the tribe had received their patents, others were ready to sell out and move to the Indian Territory. Such a condition of affairs was only too evident in 1869, when all the lands that had been already allotted and patented were put upon the market. The Indians remained in Johnson county until the early '70's† and then removed to the Indian Territory, there to be consolidated with the Cherokees. Such of their lands as were yet unsold were left in the care of the agency.

During Grant's first term, Dr. Reuben L. Roberts was appointed United States agent to transact business for the Shawnees and to finish up the allotting of the land. Henry McBride, of Olathe, acted as his secretary, and assumed almost complete control of the business, Doctor Roberts being little more than a figure-head. Under the treaty, the allottees were powerless to convey land without the consent of the secretary of the interior. This fact, together with the neglect or incompetency of Doctor Roberts, worked as a first cause to produce some of the great legal complications that have distracted Johnson county during the last forty years.

Trusting implicitly in the Indian agent, the settlers formed the habit of paying his secretary a small fee in order to get him to transmit their Indian deeds to Washington for approval. In many instances the approved deeds were not returned to the settlers, and additional fees were charged, from time to time, ostensibly to hasten official action at headquarters. When at length a barn in which Mr. McBride kept his papers was destroyed by fire, the settlers insisted upon receiving their approved deeds; but were told that the documents had all disappeared in the conflagration. This placed the settlers in a fearful predicament. The Shawnee records were also destroyed, because, when the agent had been ordered to send them down to the Indian Territory, where the tribe then dwelt, his secretary had simply sent abstracts and had retained the originals. Strangely enough, too, the Indian office at Washington had no duplicates or anything to prove that the settlers were the legal occupants of the land.

As always happens under like circumstances, unscrupulous lawyers took advantage of the awkward situation, and until Hon. J. D. Bowersock‡ succeeded

* 16 U. S. Statutes at Large, p. 53; Report of the Secretary of Interior, 1878, p. 144.

† Report of the Indian Commissioner, 1871, p. 497.

‡ JUSTIN D. BOWERSOCK was born in Columbiana county, Ohio, September 19, 1842. At the close of his course in Ohio common schools he engaged in business as a merchant and grain dealer at Iowa City. In September, 1866, he was married to Miss Mary C. Gower. He removed to Kansas in 1877, settling at Lawrence. He became interested in the water-power, and established several manufacturing plants. In 1887 he was elected to the house of representatives, and in 1895 to the state senate. In 1898 the Republicans of the second district nominated him for Congress. He was reelected in 1900, and again in 1902. He also served two terms as mayor of the city of Lawrence.—ED.

in getting a law passed through Congress to quiet the title, settlers in the region of disputed ownership, that is, in Monticello, Lexington and Olathe townships, were at the mercy of all who chose to assail them. One lawsuit after another summoned them into the court-room, and the pity of it was that no amount of litigation of that kind could ever settle the point at issue. Without the interference of Congress the thing might be repeated *ad infinitum*. An undisturbed possession of thirty or forty years availed nothing as far as the settlers on the Shawnee lands were concerned; for the state law, which gives title after fifteen years of quiet occupancy, is inoperative when applied to land held under Indian title. Whatever it may have done once upon a time in Georgia, state law can never deprive an Indian of his property rights in Kansas.

The material on the Black Bob controversy would make a thesis in itself. The story is a long one and involves much that is too delicate for consideration here. During the civil war the Black Bobs fled from Kansas, leaving their lands open to encroachment and to the unmolested occupation of settlers. Some people say they were scared into flight by troubles on the border; others that they went voluntarily, having never been really satisfied with the location of their communistic settlement. Settlers on the deserted lands remained in possession for several years without the payment of taxes on realty or rents of any kind. Finally the Black Bobs were induced by speculators to petition the general government to allow them to make selections and to receive patents as other Shawnees had done. The prayer was granted; then came the episode of the Black Bob frauds.

Speculators, eager for the opportunity, swarmed into the Indian Territory, hunted up the patentees, and obtained, or professed to obtain, conveyances of a large portion of the Black Bob reserve. The conveyances were immediately filed with the secretary of the interior for approval; but as the settlers, believing them to be fraudulent, entered a protest, that officer refused to approve them.* For the same reason, Congress passed an act, July 15, 1870, forbidding the issue of patents to any more Black Bob allottees. This injected the affair into politics, and for years thereafter it was an issue that knew no party lines save only those that its own peculiarly local character determined. Both the speculators and the settlers maintained a lobby in Washington to procure favorable legislation. The Indians, having interests distinguishable from those of the white man, hired a special agent, T. S. Slaughter, of Olathe.

At the time when interest in the Black Bob fraud was at its greatest height, Sidney Clarke,† of Lawrence, "the tall young oak of the Kaw," was the only United States representative from Kansas, and the settlers depended upon him to see that justice was done them. He deferred action from one year to another,

*16 U. S. Statutes at Large, p. 310.

†SIDNEY CLARKE was born at Southbridge, Worcester county, Massachusetts, October 16, 1831. His grandfather was an officer in the revolution, and was present at the surrender of the British army under General Burgoyne, at Saratoga, and his father served in the war of 1812. Until eighteen years of age he remained on the farm, and then engaged in mercantile pursuits. In 1854 he became the publisher of the *Southbridge Press*. His first vote was cast for Hale and Julian, in 1852. In the spring of 1858 he came to Kansas, and in 1859 settled in Lawrence. In 1862 he was elected to the state legislature. In 1863 he was appointed assistant adjutant general by President Lincoln, and assigned to duty as acting provost-marshal general for the district of Kansas, Nebraska, Colorado, and Dakota. In 1863 he was made chairman of the Republican state central committee. In 1864 he was nominated and elected by the Republicans as their candidate for Congress. He was reelected in 1866 and 1868, and defeated by D. P. Lowe in 1870. In 1878 he was elected to the legislature from Lawrence, and was made speaker of the house in 1879. He has since become a resident of Oklahoma, and is now engaged in the statehood movement.—ED.

held so lament, so to speak, in abeyance, in order that he might be elected on the same issue again and again. He served three terms in Congress, and managed to do something for distressed settlers in other parts of the state, but never anything for those in Johnson county. The people then supported Stephen A. Cobb as congressman for two successive elections, and he was similarly inactive. He came up once more for reelection, but the people had grown weary of empty promises, void of tangible results, from men of their own political faith, and gave their support to the Democratic nominee, John R. Goodin. He was elected, and, in a community where the men were, on national questions at least, nearly all Republicans of the stalwart type, he carried the vote by an overwhelming majority. This shows how, independent of party, the settlers were determined to secure a man who would truly represent them and their immediate interests. Indeed, it was commonly reported in those days that Johnson county went Democratic or Republican according to the politics of the man who, in the heat of campaign strife, would promise to support the settlers' cause. Goodin, like his predecessors, promised great things, but accomplished nothing. He failed of reelection in consequence. Dudley C. Haskell,* a Lawrence merchant, was his successor; and within twelve months after taking his seat he succeeded in getting a joint resolution adopted which gave the settlers a colorable right of occupancy, and which, by introducing the legal phase eventually settled the whole matter.

The joint resolution,† which passed Congress March 3, 1879, authorized and required the attorney-general to cause a suit to be commenced in the United States circuit court for the district of Kansas for determining the validity of what were known as the "'69 patents." The United States was made the complainant in the suit, while the speculators holding deeds of conveyance, the Black Bob band, the individual Indian patentees and the settlers occupying the land were all made defendants. Geo. R. Peck and J. R. Hallowell, United States attorney for the district of Kansas, signed the bill as solicitors for the government. Later on, W. C. Perry and W. J. Buchan, of Kansas City, Kan., appeared in the case for the settlers; and W. H. Rossington, C. B. Smith, A. L. Williams, C. W. Blair and A. S. Devenney for the speculators. The Indians were represented by special counsel appointed by the government.

Four years afterwards a "consent decree was entered as to part of the land,

*DUDLEY C. HASKELL was born at Springfield, Vt., March 23, 1842. He was the son of Franklin Haskell and Almira Chase. The father came to Kansas with the second Lawrence party September 15, 1854. Dudley C. Haskell came to Kansas with his mother in March, 1855, being then thirteen years old. The father was mainly instrumental in organizing Plymouth Church, in Lawrence, and offered the first public prayer on that historic town site. Dudley immediately became interested in the free-state cause, and enlisted under James H. Lane. In January, 1857, the father died. In 1857 he returned to Springfield, Vt., to attend school. In 1858 he returned to Lawrence, and engaged in business. In 1859 he went to Pike's Peak, and prospected for two years. Upon the breaking out of the war he returned to Kansas and became a master of transportation, and for two years he engaged in the most hazardous service in Missouri, Arkansas, Kansas, and the Indian Territory. He participated in the battles of Newtonia, Cane Hill, and Prairie Grove. In 1863 he entered Williston's Seminary, Easthampton, Mass., to complete his education. He graduated from Yale, in the scientific course, in November, 1865. He returned to Lawrence, and engaged in merchandizing until the fall of 1876. He was elected to the Kansas legislature in 1872, 1875, and 1876, in this latter session being elected speaker of the house. In the fall of 1876 he was elected a member of the forty-fifth Congress from the second congressional district of Kansas, reelected in 1878 to the forty-sixth Congress, and to the forty-seventh, in 1880. He served with distinction as a member of the ways and means committee and as a tariff leader. He was elected for the fourth time in 1882, but failing health prevented him from taking his seat. He died in Washington, December 16, 1883. He was married December, 1865, to Hattie M. Kelsey, of Stockbridge, Mass.—ED.

† 20 U. S. Statutes at Large, pp. 488, 489.

under which the patents were approved, the speculators' deeds also approved, and the settlers required to pay to the Indians or to the speculators, as the case might be, a certain amount of money for every quarter-section occupied." Similar decrees were entered from time to time as occasion offered. All were in the nature of compromises, although the interests of the settlers and of the Indian patentees appear to have been sacrificed. It must be understood, however, in crediting such a remark, that the decrees were merely advisory to the secretary of the interior as to his duty to approve the deeds. The settlers finally obtained a clear title at an average price of ten dollars an acre, and it is said that the Indians managed to secure about four dollars of that amount. The rest went to the speculators.

In October, 1890, a similar proceeding was begun in the United States circuit court for the district of Kansas to settle the title to the remaining Black Bob lands, and David Overmyer was appointed special master in chancery to collect testimony. The suit was upon a bill filed by the United States district attorney, J. W. Ady, under the direction of the United States attorney-general, whose name was attached to the bill on behalf of the government. There was no consent decree in this case. Overmyer took the depositions of witnesses, and his findings of facts and conclusions of law were afterwards confirmed by Judge Foster. Voluminous evidence was introduced to show that the deeds had been drawn up with all due formality, and that a reasonable amount of consideration money had, in every case, been paid. The decree in the second suit was entered September 7, 1895.*

WYANDOT.

In the early part of March, 1855, a treaty† with the Kansas Wyandots went into effect, whereby each member of the tribe was invested with the right of claiming citizenship under the laws of the United States. The significance of such a provision can be fully appreciated only by bearing in mind the general superiority of the Wyandots to most of the Indian emigrants. As is well known, they had considerable political ability; and in 1852, when the organization of a Kansas territory was the subject of discussion, it was their leading men who called for the election of delegates to Congress, and William Walker, first provisional governor, was one of their number.

The citizenship clause was, nevertheless, only an incidental feature of the treaty of 1855. It was necessarily so, because other clauses provided for the disposition of much-coveted soil. The thirty-nine-section reserve was ceded to the general government, and then, almost in its entirety, reconveyed to the tribe under a new and better title, *i. e.*, declared open to allotment on a fee-simple patent. Of the lands not reconveyed, some were to be consecrated as a common burying-ground, and the rest, eighty acres, transferred to institutions. A slight revival of the old promise—the redeeming feature of so many Indian treaties—that the reservations should always remain outside the limits of a state or territory, was seen in the concession that Wyandot patented lands should be exempt from taxation “for a period of five years from and after the organization of a state government in the territory of Kansas.”

The most peculiar thing about the Wyandot treaty of 1855 was its division of the Indians into two classes, competents and incompetents, according as they were capable or incapable of managing their own affairs. The land granted to the competents was held by an absolute and unconditional title in fee simple,

* Report of David Overmyer, Special Master in Chancery, Journal S, United States Circuit Court, pp. 159-190.

† Revised Indian Treaties, pp. 1022-1028; 10 U. S. Statutes at Large, pp. 1159-1164.

and its future conveyance required no outside approval whatever. The lands of the incompetents were to be inalienable for five years and to be patented at the discretion of the commissioner of Indian affairs, but the courts decided that as soon as the restrictions had been removed title by prescription might be acquired.* The competent Indians seem to have had a decided advantage over their less fortunate kindred, and there is some suspicion that the division into two classes was a scheme for the abler members of the tribe to make away with the property of the others. Heads of families took land in severalty for their wives and children and were held to possess the fee-simple title to the whole.† In fact, minor children remained incompetents after coming of age.‡ As time went on, however, both competents and incompetents became so impoverished that they were glad to avail themselves of the omnibus treaty of 1869§ and emigrate to the Indian territory. Before going the competents wisely destroyed the books of the council in which the guardianship records were kept.

KAW.

If Council Grove had been made the capital of territorial Kansas, as Governor Reeder wished, the Kaw reserve would have been one of the first opened to settlement. As it was, all efforts to negotiate a cession previous to 1859 failed. In October of that year, Alfred B. Greenwood, who had been especially commissioned to treat with the Kaws, called them together in executive session without notifying the local agent of his intention. That in itself was a suspicious circumstance and might have been taken as a premonition that all was not well. As soon as the Indians were assembled, Greenwood presented a treaty that had been secretly drafted by the Indian ring in Washington, and provided for the sale of 150,000 acres under sealed proposals to the highest bidder. As soon as the terms of the treaty became known, the settlers were aroused and measures were set on foot to defeat its ratification. Rush Elmore, a federal judge, was sent as a delegate to Washington and succeeded in getting the senate to amend the treaty so as to reimburse the unintentional trespassers on the Kaw reserve for the loss of their improvements.

The treaty was ratified in 1860.¶ It provided for a division of the original reservation into trust and diminished reserve lands. Out of the latter, which lay in the southwest corner, nine by fourteen miles in extent, allotments were to be made in severalty. Each head and member of a family, each single adult male, and each of thirty-four half-breed Kaw children, residing on the north bank of the Kansas river, had the privilege of selecting forty acres, which they were to hold as inalienable property under certificate title. The trust lands were to be appraised immediately and advertised for sale under sealed proposals. The settlers were not made aware of the amount of the official appraisement, but an employee of the Interior Department volunteered some information which they concluded to act upon. He pretended to be their friend, and gave them certain figures which they supposed equaled the value placed by the government upon the trust lands. Great, then, was their chagrin when they found that he had deceived them and had caused them to offer bids that were too low by only a few cents. A speculator named Bob Corwin offered a few cents more and obtained nearly the whole of the coveted lands. The fraud was so evident that the bids were rejected and new proposals called for.

*Schrumpcher v. Stockton, 58 Kan. 758.

†Summers v. Spybrick, 1 Kan. 370.

‡Frederick v. Gray, 12 Kan. 399.

§Revised Indian Treaties, p. 844; 15 U. S. Statutes at Large, pp. 516, 517.

¶12 U. S. Statutes at Large, p. 1111.

In the meantime H. W. Farnsworth negotiated a new treaty, supplementary to that of 1860.* It was proclaimed in March of 1863, and although its avowed object was the relief of the men who had ignorantly settled prior to the Montgomery survey, it availed them little, because it stipulated that they should be reimbursed for their improvements in Kaw land scrip; that is, in certificates which had a cash value, and, indeed, were supposed to be receivable as cash in payment for the Kaw trust lands. The scrip soon depreciated, and the settlers holding it were rarely able to realize more than fifty cents on the dollar.

In 1863 Congress passed an act† which authorized the president to treat for a removal of all the Kansas tribes to the Indian Territory. Excitement ran high in Morris county, and there was so much party feeling between the settlers and the speculators that nothing could be done. A treaty was negotiated, it is true, in 1866, which provided that the southern branch of the Union Pacific, now known as the Missouri, Kansas & Texas railroad, should have the privilege of buying all the unsold trust and diminished reserve lands. The treaty was sent to the senate and "hung fire for six months." The people of Kansas were beginning to object seriously to monopolistic control of Indian lands, and their complaints echoed and reechoed throughout the length and breadth of the land. Hon. Sidney Clarke, of Lawrence, took up the settlers' cause and eventually succeeded in procuring the rejection of the treaty.

The excitement was not quieted, however, and Senators E. G. Ross and S. C. Pomeroy were urged repeatedly to bring pressure to bear upon Congress, so as to force the Kaw lands upon the market. In 1871 emigrants went to Morris county in great numbers, and the demand for the extinguishment of the Kaw title grew ever more fierce and bitter. In 1872 the trust lands were appraised, preparatory to a sale; but again the appraisement proved unsatisfactory to the settlers and was set aside. In July, 1876, Congress authorized a new appraisement,‡ which, being made in the following year, enabled the Kaw lands to pass without further trouble into the hands of actual settlers. The Indians had already emigrated to the Indian Territory.

CHIPPEWA AND MUNSEE.

The treaty of 1860, made§ with the Chippewas of Swan creek and Black river, divided their reservation, which lay about forty miles south of Lawrence, into two parts, the ceded and the reserved. The former consisted of 3440 and the latter of 4880 acres. Out of the reserved land assignments in severalty were made, not to the Chippewas alone, but likewise to the Munsees, or Christians, who had a short time before agreed to pay \$3000 for a share in the Chippewa reserve of thirteen sections. The allotments in severalty comprised tracts not exceeding forty acres for each member of a family and for each orphan child, and tracts not exceeding eighty acres for each unmarried person not connected with a family. The assignments having been made, there remained a surplus of about 1428 acres, which was appraised in 1865, preparatory to a sale.¶ The sale began in 1871, and the Chippewas then asked permission to sell such lands as were held by certificate title and to move to the Indian Territory.**

In 1896, the Department of the Interior recommended†† that the Chippewa

*12 U. S. Statutes at Large, p. 1221.

†12 U. S. Statutes at Large, p. 793.

‡19 U. S. Statutes at Large, pp. 74-76.

§Revised Indian Treaties, p. 229; 12 U. S. Statutes at Large, pp. 1105-1109.

¶Report of the Indian Commissioner for 1865, p. 45.

**Report of Indian Commissioner for 1871, p. 462; *ibid.* for 1876, p. 75.

††Report of the Interior Department, House Documents, 12, p. 62.

and Munsee allotted lands be patented and their remaining vacant lands sold. For that purpose final action was urged upon house bill No. 7569, introduced at the preceding session of Congress. The ninth section of the Indian appropriation act, approved June 7, 1897, thereupon provided* that, "with the consent of the Indians, a discreet person should be appointed to take a census of the Chippewa and Munsee Indians, of Franklin county, to investigate their individual title to the several tracts of land within their reservation for which certificates were issued under the treaty of 1859-'60." The act of Congress further provided for the issue of patents in fee to those entitled to receive them, for the appraisement and sale to the highest bidder of the residue lands, and for the distribution per capita of the trust funds credited to the Indians on the books of the United States treasury. The Chippewas and Munsees were duly notified of this legislation and were convened in general council to act upon it. Both men and women debated.† Hon. C. A. Smart, of Ottawa, now district judge for the counties of Douglas, Franklin, and Anderson, was appointed special commissioner. In March, 1901, a large part of the Chippewa and Munsee lands were sold at public auction at the Topeka land-office,‡ and final payment was made to the Indians at Ottawa November 5, 1901.

SAC AND FOX OF MISSISSIPPI.

The Sacs and Foxes of the Mississippi band from Illinois and Iowa made a treaty of cession in 1860,§ by which they ceded in trust to the general government "all that part of their reservation lying west of range line 16, comprising about 300,000 acres," and retained 153,600 acres as a diminished reserve.¶ The treaty of 1860 conceded head rights by assignments of land, which were to be inalienable, except to the United States or to other members of the Sac and Fox tribe. The lands of the diminished reserve were to be disposed of in this wise: Every full-blooded Indian was to receive eighty acres, and the agent 160, while another quarter-section was to be set aside for the establishment and support of a school.

The Sac and Fox trust lands included "all that territory lying south of the Marais des Cygnes, and extending to Coffey county and into Osage county."** The treaty provided that, after 320 acres had been given to every half-breed, and to every squaw married to a white man, the remainder of the trust lands should be sold under sealed bids for the benefit of the Indians,†† and especially for the liqui-

* Report of Interior Department, House Documents, 13, p. 404; 30 U. S. Statutes at Large, p. 92.

† Reports of the Indian Commissioner, 1897-'98, p. 78.

‡ Kansas City *Star*, October 27, 1901.

§ Revised Indian Treaties, pp. 762-767; 15 U. S. Statutes at Large, pp. 467-471.

¶ Charles R. Green, of Lyndon, Kan., who is engaged in writing a book on the "Tales and Traditions of the Marais des Cygnes Valley," describes in *Current Remark*, February 20, 1896, the Sac and Fox cession as comprising the western twelve miles and the eastern six miles of the original reserve. He says, further, that the six-mile strip of 76,800 acres lay almost entirely within Franklin county, and seems never to have been offered by the general government to actual settlers, but was soon allowed to be appropriated by speculators. Chief among those speculators was John P. Usher, secretary of the interior under Lincoln, and William P. Dole, commissioner of Indian affairs. Judge Usher was, as his wife is at present, a resident of Lawrence, and afterwards owned an extensive farm near Pomona. J. H. Whetstone, who was one of the founders of that town, purchased 15,000 acres of the Sac and Fox trust lands.—ED.

** *Ottawa Republican*, October 4, 1877.

†† A large part of the trust fund was expended, contrary to the wishes of the Indians, in the erection of about 150 little stone houses. Some sharpers, led by Robert S. Stevens, at a later time a representative in Congress from New York, secured the building contract. When the houses were completed, the Indians sold the doors and windows for whisky, and used the frames as stables for their horses. A similar story is told of the Kaw Indians, and, strange to say, Stevens seems to have been the prime mover in both affairs.

dation of their debts. Accordingly, some time in that same year, they were surveyed, but it was not until late in 1864 that the secretary of the interior invited sealed bids. "A good many bids were offered by persons then residents of the territory; but those men were either overbid by parties at Washington or awarded lands of an inferior quality for which they had made no bid. Hugh McCulloch, the comptroller of the currency, W. P. Dole, commissioner of Indian affairs, and John G. Nicolay, Lincoln's private secretary, appeared among the bidders." The largest bidder was John McManus, of Reading, Pa., who sold the land awarded to him to Slyfert, McManus & Co., an iron manufacturing corporation. The McManus purchase was the largest ever made in Kansas on individual account.

In 1868 the Sacs and Foxes* concluded another treaty,† by which they ceded directly all that remained unsold, not only of their trust lands, but also of their diminished reserve, excepting 4096 acres of the latter, which, upon approval of the secretary of the interior, were to be patented to individuals, as were also the lands granted in 1860 to half-breeds. In consideration for the direct cession, the United States agreed to pay the Indians one dollar an acre and to extinguish tribal debts amounting to about \$26,574 plus the accumulated interest.‡ The Indians thereupon prepared to emigrate to the Indian Territory. Some of them had gone in 1867. § By 1871 all but one chief, Mokohoko, and his band, had departed from Kansas.¶

* Revised Indian Treaties, pp. 767-775; 15 U. S. Statutes at Large, pp. 495-504.

† A peep behind the scenes reveals the fact that a few whites, among them Perry Fuller, of Ottawa, and some of the most prominent citizens of Lawrence, plotted to secure possession of the "four-mile strip," situated in the fine bottoms of Quenemo. It is commonly reported that these men brought about the intoxication of Chief Moses Keokuk, and then obtained, or pretended to obtain, his signature to the treaty of 1867-'68. After a time he recovered his senses, but they were already on their way to Washington and the treaty was ratified before he could enter a protest. Keokuk then brought a suit in Osage county for a thousand dollars damages against the agent, Dr. Albert Wiley. The money was paid, in order to prevent further disclosures. The Indians were so enraged at the fearful fraud which had been practiced upon them that they tried to kill the interpreter, George Powers, for his share in the matter.

‡ The Indian office in 1865 recommended that the unallotted lands should be sold in liquidation of debts. Report of Indian Commissioner, 1865, p. 383.

§ Report of the Indian Commissioner, 1871.

¶ The story of Mokohoko, sad as it is, gives a touch of romance to a history that would otherwise be filled with the recital of shameful episodes only. By the regular succession of Indian chiefs, Mokohoko ought to have succeeded Black Hawk; but a usurper, commonly called "Old Keokuk," to distinguish him from his grandson, John Keokuk, of Indian literary repute, contested his rights, and was sustained in his own pretensions by the main body of the tribe. When the Sacs and Foxes of Mississippi were banished from Iowa, whither they had retreated after the Black Hawk war, Mokohoko refused to recognize the authority of Keokuk, and instead of going to the reservation on the Marais des Cygnes, joined the Cheyennes. Later on he became reconciled; but in the fall of 1866 took opposite sides with Keokuk against the Indian agent, Maj. H. W. Martin. This brought up again the old question of precedence in rank. The trouble called for a trial before a commission sent out from Washington. H. P. Welsh, of Ottawa, Kan., was employed as attorney by the disaffected Indians, Keokuk supported Major Martin, and the court rendered a decision adverse to Mokohoko. When the time came to approve the treaty of 1867-'68, Mokohoko positively refused to annex his signature, and obstinately held out against removal. The main body of Sacs and Foxes went south, but Mokohoko and his band hung around the old home like disconsolate spirits.—Paul Jenness, in *Kansas Home News*, January 2, 1880. In November, 1875, when federal troops were sent to compel removal, the Indians yielded to force and went, but returned immediately. Mokohoko died in the summer of 1870. His followers were grief-stricken and lingered around Quenemo, keeping a lonely vigil over the exiled chieftain's grave. After a time many of them wandered down to the Indian Territory. Those who stayed in Osage county worked for the neighboring farmers, but in 1886 the troops were again sent to escort them to their friends. They have never since returned.

POTTAWATOMIE.

In 1862 the United States made a treaty* with the three bands of Pottawatomies that had settled in the eastern part of the first Kaw reserve. Thereupon the blanket Indians, known as the Prairie band, severed their connection with the other two bands, the Mission (or Christian) and the Woods,† and received 77,440 acres—eleven square miles—as their share of the tribal domain. The other two bands, the “citizen Pottawatomies,” were allotted land in severalty—640 acres to each chief, 320 to each head man, 160 to each other head of a family, and eighty acres to each other person. Two institutions were granted 320 acres each. The residue was offered under the treaty to the Leavenworth, Pawnee & Western Railroad Company, but no sale was successfully made. In 1867, by another treaty,‡ a new home was provided for that portion of the citizen Pottawatomies, chiefly of the Mission band, that had not yet acquired a personal ownership, while the land originally intended for their individual use was transferred to the Atchison, Topeka & Santa Fe Railroad Company at the price of one dollar an acre, the amount to be paid, not in gold, but in lawful money—that is, in greenbacks.

The disposal of the Pottawatomie lands contained a departure, new in several respects, from that hitherto followed in releasing Kansas soil from the Indian encumbrance. Under the treaty of 1862, certificates of allotment were issued, with the restriction that they be non-transferable except to full-blooded Pottawatomies. The treaty of 1868 provided that patents might be issued to the holders of the allotments and that the head of a family might receive the patent for the lands of his family. For the first time in the history of Kansas, an Indian was obliged to go before the courts and be citizenized, by a process similar to the naturalization of an alien. Thereupon he received a patent free from all conditions. A very important question arose, and one of vast practical interest, as to whether the head of the family took an absolute title to the lands of his family or only held them in trust. The supreme court of Kansas and the United States circuit court § held that the title of the patentee was absolute. Another novel provision was that the Indians might resort to the state law to determine heirship. Thus it would seem that the provision by which patents could be issued was a contrivance of the Indian ring to put the land into the hands of a few persons, so that it could be more easily disposed of. The probate courts were used as parties to the scheme of plunder. The estates of living Indians absent in Mexico were administered upon and sold.

During the civil war a good many of the Pottawatomies took refuge in Mexico, and while they were absent their estates were administered upon as though the owners were dead. Several cases ¶ bearing upon the subject were brought in the United States circuit court for the district of Kansas and dismissed by the plaintiff without prejudice. The condition of affairs was as follows:

“A memorial purporting to be signed by certain Pottawatomies concerning their grievances was presented to Congress, and referred to the committee on

* 12 U. S. Statutes at Large, pp. 1191-1197.

† Mrs. Sarah Baxter, daughter of the Pottawatomie missionary, Rev. Robert Simerwell, says, in a memorandum presented to F. G. Adams, late secretary of the Kansas Historical Society, that the names of the three bands were, respectively, the Prairie, St. Joseph, and Wabash.

‡ 15 U. S. Statutes at Large, pp. 531-538.

§ *Veale v. Maynes*, 23 Kan. 1-19.

¶ *United States v. Mkoquawahwsot et al.*; *United States v. Zebequa et al.*; *United States v. Tabahisug et al.*; *United States v. Kahwsot et al.*; and *United States v. Mazhenahnummukskuk et al.*

Indian affairs. Complaint was made that certain parties had obtained possession of the lands of those Pottawatomies through forged deeds, and had obtained money from the United States by reporting the Indians dead and obtaining letters of administration on their estates.

"In 1871 the business committee of the Pottawatomie tribe filed in the office of Indian affairs a certain list and certificate, in which it was represented that patents ought to be issued in the name of the absentees, in order to prevent the destruction of the timber on their estates. Thereupon President Grant, acting with the advice of the secretary of the interior, on the 15th of April, 1872, issued, under the treaty of 1867, patents to the Pottawatomies reputed to be dead. One of these patents was issued to Mokoquawa, a woman of the family of which Kahw-sot was the head, who, being an adult female, was entitled to the beneficial provisions contained in the third article of the treaty of 1861, as those provisions had been extended by the supplemental article in the treaty of 1866. If she had been really dead, the title would have accrued to the benefit of her heirs by virtue of the provisions of the act of Congress of May 20, 1836; but as she was not dead, it passed to and vested in her, not as mere donee of the government, but as a purchaser, the United States retaining no beneficial interest in the estate, either legal or equitable.

"Some years later it was rumored that the absent Pottawatomies were yet alive; and Oliver H. P. Polk, a man of honorable character, as attested by papers on file in the Indian office, went to Mexico, found the missing Indians living with the Kickapoos, and bought their allotments in Kansas. The deeds given him were certainly not forged, for the Mexican government superintended the sale. On Polk's return to Kansas, he sold the Pottawatomie lands to Messrs. Mulvane and Smith, who in turn sold them to actual settlers.

"After the purchase, the United States filed its bill in equity in the circuit court for Kansas against both the Indians and the purchasers, asking that the patent issued to the Indians be canceled and the title revested in the United States. To this bill the defendants put in a general demurrer, on the ground that the facts stated in the bill did not entitle the complainant to the relief prayed for. The bill in equity did not pretend to deny the *bona fides* of the parties concerned, but proceeded on the theory that the patents were void for purely technical reasons. While the suit was pending, Congress passed an act confirming the conveyance from the absent Pottawatomies, providing it had been made in good faith and for a valuable consideration, whereupon the suit was dismissed."*

The Prairie band of Pottawatomies did not emigrate with their kindred to the Indian Territory. They still live upon a reserve which has been greatly diminished in acreage since the date of its first assignment. It is situated in Jackson county, north of St. Marys, or about twelve miles north of the Kansas Pacific railroad. Nearly all of the lands,† much to the dissatisfaction of the older Indians, have been allotted; but there still remain 16,000 acres of surplus land, constituting a tract which is likely to become a subject of contention in the near future, and there seems to be a growing sentiment in the tribe favoring its sale.‡ This compulsory allotment, if it might be called such, is in accord with the spirit of the congressional enactment of 1890, whereby the Pottawatomies were directed to select their tracts in severalty before the 1st of September, 1894. Some of them declined to do so.§

*Brief of Shannon & Williams, solicitors for the defendants.

†*The Commonwealth*, April 14, 1885.

‡Reports of Indian Commissioner, 1874; p. 38, 1877; report of the Indian agent, Ho. Docs. 1897-'98, pp. 13, 151.

§*Topeka Daily Capital*, September 20, 1894.

OTTAWA.

In the opening years of the civil war the Ottawa reserve, lying almost in the center of Franklin county, was besieged by prospective settlers, and once again the enterprise of white men sounded the knell of Indian progress. The Ottawas were at first indignant at the influx of the foreign population and then resorted to a novel expedient to obtain relief. The experience of their race, if not their own shrewdness, had taught them two things: First, that, as against the greed of the land shark, the tribal occupancy of the Indians is little more than a tenancy at will; secondly, that the individual holding is not a guaranty of security, sufficient to warrant its adoption, unless it is accompanied by citizenship, because, when separated from the rights conferred by citizenship, it is the shadow without the substance. Here was a dilemma. Allotment, from its temporary nature, was not worth the effort necessary to secure it as an alternative to removal, and citizenship was, perhaps, more than the federal authorities would be willing to concede. At this juncture two men appeared upon the scene who were destined to illustrate, in its most glaring form, the miserable farce of government guardianship over an alien race. Although Wm. P. Dole was the person regularly commissioned to arrange matters with the Ottawas, Isaac S. Kalloch, superintendent of the Leavenworth, Lawrence & Galveston Railroad Company, and C. C. Hutchinson,* from interested motives, it is believed, "engineered the treaty of 1862,"† a treaty which marks an epoch in Ottawa history, because its provisions, dealing for the most part with citizenship and the disposition of land, caused no end of trouble to the reservees.

The first article of the treaty of 1862 indicated the means by which the Ottawas hoped to protect themselves from future intrusions. It stipulated that, within five years from the date of ratification, all individuals of the united bands of Blanchard's Fork and Roche de Boeuf should be admitted to full and free citizenship in state and nation. This was a provision wider in its scope, because more immediate in its operation, than that in the Pottawatomie treaty concluded a few months before. Its constitutionality may well be questioned, inasmuch as citizenship is coincident with naturalization, and naturalization is admittedly an exercise, not of the treaty-making, but of the law-making power. This was not a serious objection, however, and in the particular case under consideration does not seem to have been raised at all. Indian treaty-making, at best, was a questionable prerogative, and can be defended only on the supposition that the end always justifies the means.

The article on citizenship was introductory to the articles that followed. It was the fundamental one—the one without which they amounted to little, but from which the Ottawa beneficiaries confidently trusted a great deal would come. The 72,000 acre reserve, after being surveyed, platted into eighty-acre tracts, and diminished by a grant of five sections which was to be distributed in full council among chiefs, councilmen, and head men, was to be subject to allotment in severalty under the issue of patents in fee simple. The allotments were of two sizes—quarter-sections for heads of families and half quarter-sections for every other individual in the tribe, presumably males and females, competents and incompetents, minors and adults, share and share alike.

The provision in the treaty which caused the Ottawa controversy of later

*C. C. HUTCHINSON was United States agent for the Ottawas at the time, and thus was in a position to carry the treaty through. The real purpose of Hutchinson and Kalloch was to obtain a town site at the Ohio City crossing of the Little Osage river, where Ottawa now stands, and to speculate with both the town lots and the Indian lands.

†12 U. S. Statutes at Large, pp. 1237-1243.

years was that which stipulated for the endowment of a school with 20,000 acres, plus an additional section, which was to be inalienable, and which was to constitute a site for the erection of buildings. The 20,000 acre endowment was itself not inalienable; but a board of trustees, created for purposes of supervision, was somewhat limited in its power to sell any part of it. The proceeds from sales were to be invested so as to constitute a principal that could never be diminished. The interest only was to be available for current expenses.

The intention of the Indians, and the understanding of all who were in any way concerned with the negotiation of the Ottawa treaty of 1862, was that the school so endowed should be devoted exclusively to the education of Ottawa youth. If white children partook of its benefits, it was to be supposed that the Baptists, since that denomination controlled the religious affairs of the tribe, would contribute an equal amount, so as to double the endowment. The treaty did not so specify; but as Kalloch, with the help of the American Baptist Home Missionary Society, proceeded forthwith to raise between \$30,000 and \$40,000, ostensibly for the erection of buildings, it would seem that he at least, one of the leading spirits of the whole concern, was fully cognizant of the tacit agreement. As soon as Kalloch returned from New York, whither he had gone to solicit aid from the Baptist Home Missionary Society at its headquarters, he undertook the management of the school fund, and with the ready assistance of C. C. Hutchinson, the special United States agent to superintend the division of the Ottawa land, started to erect the main building.

It would be too long a story to describe how the Ottawa Indian school fund* was diverted from its purposes. Kalloch was a long time in erecting his building; and, in 1870, the Ottawas emigrated, under the omnibus treaty, to the Indian Territory. That of itself would not have prevented their participation in the benefits of their own endowment, because article 6 of the treaty of 1862 expressly declared that, no matter where they might wander, their rights in the school should follow them and should never pass away. It is generally believed that the conditions of the school were changed when the Rev. Robert Atkinson assumed control in place of Kalloch, who had been forced to resign by the Baptist Home Missionary Society. Atkinson had probably no intention of depriving the Ottawas of their vested rights; for immediately on his appointment he went down to the Indian Territory and induced about twenty young girls to return with him to the school. Besides, later on, we find him, on more than one occasion, standing up for the Ottawa rights against the dishonesty and trickery of Hutchinson.† The act of Congress of March 3, 1873,‡ provided for the winding-up of the Indian connection with Ottawa University, and in the process many prominent citizens of Kansas so manipulated things that the Indians received practically nothing from all that was left of the original endowment.

*The Kansas State Historical Society has two pamphlets relating to this suit, "The argument of Henry Beard, attorney of the university, before Jacob D. Cox, secretary of the interior, August 2, 1870," and "Reply of the Ottawa University, presented to the United States senate April 20, 1871," by Henry Beard.

†When the time came to settle the Ottawa accounts, C. C. Hutchinson was \$42,000 behind, and three men (Enoch Hoag, the Quaker superintendent of Indian affairs, A. N. Blackledge, a Lawrence lawyer, and Kalloch) devised a scheme to release him from all responsibility. They went down to the Indian Territory and called an Ottawa council meeting for May 14, 1870. At that meeting they distributed the regular annuities and then opened up the subject of the Hutchinson shortage. The Indians did n't comprehend just what was wanted of them, and Hoag made them believe, if they released Hutchinson, that they would win in the Ottawa University case and receive the \$42,000 from the United States government. He was careful not to refresh their memories with the fact that only a short time before the Interior Department had rejected a receipt which Hutchinson had managed to inveigle from the all too credulous Indians.

‡17 U. S. Statutes at Large, pp. 623-625.

A controversy of less importance, but none the less interesting, because it illustrates the unreliability of government agents, grew out of the fifth article of the treaty of 1862, which conditionally nationalized the outstanding debts of the Ottawas to an amount not exceeding \$15,000. The condition imposed was that the claims should be acknowledged by the Indians and confirmed by the secretary of the interior before any obligations to pay should be laid upon the government. The Cusick claim was the one that raised the difficulty. Doctor Cusick kept a store at Peoria City, and had an account against the Indians for something between \$13,000 and \$14,000. Doctor Cusick died before the Indians had, under the treaty, recognized the indebtedness, and his son and heir became administrator of the estate.

Thinking that the federal government was responsible for the Indian debt, young Cusick employed attorney L. B. Wheat, of Leavenworth, to secure a judgment for damages. The court decided that the obligation to pay had not yet rested upon the United States, and could not so rest until the Indian sanction had been given. Cusick then applied to Col. John Deford, of Ottawa, to secure the sanction, but that gentleman declined to act in the matter. Col. C. B. Mason likewise refused, and referred Cusick to Doctor Glover as the person most influential with the Indians and the one most familiar with their affairs. Doctor Glover undertook the task and straightway proceeded to the Indian Territory, where he secured the Ottawa acknowledgment of the debt. It was made out in writing, and forwarded to Enoch Hoag, and thence to the commissioner, at Washington. Hoag received an immediate instalment from the secretary of the interior, but failed to pay it to Cusick. On the contrary, he placed it to his own credit in the bank, and for the space of three years repeatedly denied, in correspondence with Doctor Glover, that he had ever received anything from the government. In 1874 Doctor Glover requested Stephen A. Cobb,* representative in Congress, to make inquiries respecting the Cusick claim at the office of the Department of the Interior. Cobb did so, and found to his surprise and that of Doctor Glover that the account had long since been canceled and the claim satisfied.

CHEROKEE.

During the war of the rebellion some of the Cherokees joined with other southern Indians in furthering the cause of the confederacy, and, as a consequence, the federal government, in 1866, justified its demand for a cession, urging as an excuse that all treaties had been abrogated by the war and that the property of the conquered was open to confiscation.† The Indians yielded the point and consented to surrender, not only Oklahoma, which was to be a place of refuge for the Indian freedmen of color, but also the whole of their Kansas land.

Under the terms of the treaty of 1866, Secretary Harlan made a contract with a Connecticut corporation—the American Emigrant Company—by which the whole of the neutral lands was to be disposed of for a very nominal sum. His successor, O. H. Browning, declared the contract void, because the purchase-money had not been paid down, and then, with strange inconsistency, negotiated one with James F. Joy, president of the Kansas City, Fort Scott & Gulf Railway

*STEPHEN ALONZO COBB was born at Madison, Somerset county, Maine, June 17, 1833. He graduated in Providence, R. I., in 1858, and read law in Beloit, Wis. In 1859 he moved to Kansas, settling at Wyandotte. In 1862 he was elected mayor, which place he resigned to enter the army. He rose to the rank of lieutenant-colonel. In 1868 he was again elected mayor of Wyandotte. He was a member of the senate in 1869 and 1870, and speaker of the house of representatives in 1872. In the fall of 1872 he was elected to Congress. He was defeated for a second term. He died August 25, 1878.—Ed.

† Revised Indian Treaties, p. 85; 14 U. S. Statutes at Large, pp. 799-809.

Company, that was open to the same objection. A supplement to the Cherokee treaty of 1866* tried to prevent litigation and to harmonize conflicting interests by arranging that the American Emigrant Company should transfer its contract to Joy, and the latter should assume all the obligations of the former. Eugene F. Ware says this treaty was ratified while only three senators were present, and that it was a gross infringement upon the preemption rights of the settlers, inasmuch as it related back to the Harlan sale and cut off all intermediate occupants of the land. The Cherokee strip was not sold until after the passage of the act of May 11, 1872,† which authorized its sale and determined the price. All land east of the Arkansas river was to be sold for two dollars an acre, and all land west for one dollar and fifty cents.

OSAGE.

The Osages and Cherokees were apparently pretty well out of the reach of the very early settlers in Kansas. In 1867 the Osages consented to a division‡ of their reservation, and four distinct tracts were laid off. The ceded lands, being those that passed directly to the federal government for \$300,000, comprised a strip thirty by fifty miles in extent, lying immediately west of the Cherokee neutral lands. The trust lands extended along the northern part of the reservation throughout its entire length. The deeded lands were sections that had been usurped by settlers, and were offered in 160-acre tracts to the squatters at a minimum price of a dollar and a quarter an acre. The diminished reserve comprehended all that was left.

In 1868 another attempt was made to secure land from the Osages. The result was the notorious Sturgis treaty, which emphasized the settlers' grievance that Indian land, instead of becoming public domain, passed to corporations. Constitutionally this was an invasion of the powers of Congress, because it anticipated and blocked the power of the legislative branch over the territory of the United States. Colonel Taylor, the commissioner sent out from Washington, allowed Wm. Sturgis, president of the Leavenworth, Lawrence & Galveston railroad, to be the controlling spirit inducing the Osages to sell their entire diminished reservation, estimated to contain upwards of eight million acres, to the company which he represented, at an average price of twenty cents an acre. Col. Geo. H. Hoyt,§ the attorney-general of Kansas, was hurried off to Washington by the incensed state officials to defeat the treaty, and Congressman Sidney Clarke exposed it in the house so forcibly that the senate was obliged to reject it. This was the last attempt in Kansas to convey Indian land by treaty, and, in a great measure was the cause of the abandonment of the treaty-making policy in 1871.¶

The Osage ceded lands were a source of much contention. In March, 1863,** Congress passed an act granting land to the state of Kansas to aid in the con-

*J. B. Grinnell's *Men and Events of Forty Years*, pp. 378-383.

†17 U. S. Statutes at Large, pp. 98, 99.

‡Revised Indian Treaties, p. 584; 14 U. S. Statutes at Large, pp. 687-693.

§GEORGE H. HOYT was born at Athol, Mass., in November, 1837. He died February 2, 1877, aged thirty-nine years. He studied law in Boston, and came to Kansas in territorial days. He enlisted as second lieutenant of John Brown's company K of the Seventh Kansas, and was made captain, but resigned on account of ill health. He became lieutenant-colonel of the Fifteenth Kansas. In 1866 he was nominated and elected attorney-general, and in 1867 he was editor of the *Leavenworth Conservative*. In 1868 he was a mail agent, and in 1869 resigned. He returned to Athol in 1871. In 1859, at the age of twenty-two, he was one of the counsel for John Brown, at Harper's Ferry.—ED.

¶Act of March 3, 1871, U. S. Statutes at Large, p. 566.

**12 U. S. Statutes at Large, pp. 772-774.

struction of certain railroads, and among them was the Leavenworth, Lawrence & Galveston. In July, 1866,* an act of similar tenor was passed, making the Missouri, Kansas & Texas railroad the beneficiary. When the Osage treaty of 1867 came to the senate, it was amended so as to recognize the force of those acts, and in virtue of that senate amendment the two railroads, in passing through the Osage lands, claimed alternate sections for ten miles on each side of their respective tracks. The odd-numbered sections were accordingly certified to them. This precipitated a political controversy of great magnitude. The secretary of the interior, O. H. Browning, supported the corporations, and his opinion was sustained by the attorney-general of the United States. The settlers called immense mass meetings, organized resistance societies, and pledged themselves to appeal to the courts and to support no candidate for any political office whatever who was not an adherent of their cause. They contended that the acts of 1863 and 1866 covered grants *in presenti*, and could not be applied to lands that, at the time of their passage, were reserved under treaty guaranties to Indian tribes. After many disappointing failures, Sidney Clarke succeeded in getting a joint resolution passed through Congress in April, 1869, which seemed to promise success to the settlers' cause, but both Browning and his successor, Cox, were determined to recognize the validity of the railroad claim.

In 1871 the case was thoroughly argued before the Department of the Interior. Judge William Lawrence appeared as counsel for the settlers, and B. R. Curtis for the railroads. Atty.-gen. W. H. Smith was appealed to, but in the end Secretary Delano decided for the corporations. Then a suit was commenced, October, 1870, in the district court for Labette county—James M. Richardson v. M. K. & T. Railroad. Maj. H. C. Whitney, of Humboldt, acted as attorney for the settlers, but, on being accused of mismanaging the case, handed it over, February, 1871, to Messrs. H. C. McComas and J. E. McKeighan, of Fort Scott.

The first suit in the local court was dismissed on a technicality. Others were instituted, but withdrawn because the settlers had decided to seek a hearing in federal courts. The impression prevailed, however, that the United States had no jurisdiction in the matter; so the Kansas legislature memorialized Congress, in order that a bill might be passed authorizing action. On December 17, 1873, Senator Crozier acted upon the memorial by introducing into the senate a bill empowering the attorney-general to bring suit in the United States circuit court against the two railroads†; but, without waiting for any such authority, George R. Peck commenced action. The settlers employed Governor Shannon, Judge Lawrence and the Hon. J. Black as additional counsel. Judgment was rendered in October, 1874,‡ and the railroad patents were ordered to be canceled. An appeal was made on a certificate of error to the United States supreme court, but the decree of the lower court was in every point affirmed.

The Osage ceded lands were then in a fair way to become the property of actual settlers, and as the joint resolution of April 10, 1869, § had expired by limitation, Governor Shannon outlined a bill which should enable the settlers to obtain a title. The bill was pushed through the house by John R. Goodin,¶ and

* 14 U. S. Statutes at Large, pp. 289-291.

† Congressional Record, pp. 41-43; vol. 2, pt. I, pp. 254-257.

‡ 92 U. S. 733.

§ 16 U. S. Statutes at Large, pp. 55, 56.

¶ JOHN R. GOODIN was born at Tiffin, Seneca county, Ohio, December 14, 1836. The father, John Goodin, was county treasurer for several terms, state senator in Ohio, and agent for the Wyandot Indians at Upper Sandusky. John R. Goodin was admitted to the bar in 1857. In 1858 he was married to Miss Naomi Monroe. In 1859 they settled in Humboldt, Kan. He lost every-

finally became a law August 11, 1876.* The Osage diminished reserve was disposed of under act of Congress, 1870,† and, in the same year, the Indians consented to remove to the Indian Territory.‡

The Osage reserve seems to present the first instance of the disposal of Indian land by act of Congress. The Indian title had invariably been extinguished and the lands secured by white men without any regard having been paid to the school sections. In his inaugural message of January 14, 1863, Gov. Thomas Carney called attention to this fact; and the first move in the right direction was taken by the joint resolution of April 10, 1869, which stipulated that the sixteenth and thirty-sixth sections in every township of the Osage ceded lands should be reserved to the state for school purposes, according to the provision of the act of admission. Several years afterwards ex-Gov. Samuel J. Crawford managed to obtain as indemnity from the federal government "an amount of public land equal to all the sixteenth and thirty-sixth sections in the Indian reservations, plus five per cent. in cash for all the Indian land sold for cash."§

A general survey of the Indian cessions subsequent to 1854 shows: First, that the cessions corresponded fairly well to the "great waves of immigration," and that they were nearly always made in groups—1854, 1860, 1863, and 1867; secondly, that, in practice, there have been several ways of extinguishing the reservation title—by direct cession in fee to the general government for a consideration, by cession in trust, by direct sales to individuals or to corporations, by conditional grants in severalty, by patents without restrictions, and by the preemption of lands already occupied by settlers. All have, however, resulted in removal, and the departure of the Osages was a very fitting close to the story of Indian colonization west of the Missouri river. Remnants of three tribes—Pottawatomies, Chippewas, and Kickapoos—still remain in Kansas; but their identity is almost obliterated. Never, never again will the Ishmaelites of the desert know the wild, free life of the Kansas prairie. The broad plains east of the Rockies are closed to them forever.

thing he had in the raid on Humboldt. In 1866 he was elected to the Kansas legislature. In 1867, he was elected judge of the district court, and reelected in 1871, which position he filled until February, 1875, when he resigned to take a seat in Congress. He was a Democrat in an overwhelming Republican district, and could not secure a second term in 1876. He died December 18, 1885.

*19 U. S. Statutes at Large, p. 127.

†16 U. S. Statutes at Large, p. 362.

‡Topeka *Record*, September 17, 1870.

§Kansas State Historical Collections, vol. 5, pp. 69-71.

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