

OPENING THE CHEROKEE OUTLET:
AN ARCHIVAL STUDY

By *Bertin B. Chapman**

Part 1

"DO SOMETHING WITH THE OUTLET!"

The fifth annual public land opening in present Oklahoma was in the Cherokee Outlet, and included the Pawnee reservation, the southern tip of which was outside the Cherokee Outlet. The area opened was bordered on the south by Oklahoma district opened in 1889, by the Sac and Fox lands opened in 1891, and by the Cheyenne and Arapahoe reservation opened in 1892. Bordering the Cherokee Outlet on the west was the Public Land Strip opened in 1890. The Outlet area opened to settlement included the surplus lands in the Cherokee country west of the Arkansas, and in the Tonkawa and Pawnee reservations; lands in the reservations occupied by the Poncas, and the Otoes and Missourias were not included in the opening. In the country opened a total of 129,106 acres were allotted to Poncas, Tonkawas, and Cherokees. The portion available for homesteads embraced nearly 6,500,000 acres.

Section 14 of the act of March 2, 1889, under which the Cherokee Commission was appointed, provided that if the Cherokees should accept a proposition for the sale of their lands west of ninety-six degrees, like the proposition accepted by the Creeks, the lands should become a part of the public domain. Provision was made for opening the lands to settlement by proclamation of the President. But the Cherokees rejected a proposition like that accepted by the Creeks.

Just prior to the opening of Oklahoma district in 1889, intended settlers were allowed to move "by regular marches and

*This article is a sequel to Dr. Chapman's series of five articles, "How the Cherokees Acquired and Disposed of the Outlet," *The Chronicles of Oklahoma*, Vols. XV, XVI (March, 1927, to June, 1928). The series of articles was basic in the case of the Cherokee Nation or Tribe of Indians v. the United States, in which the Indian Claims Commission on April 3, 1961, awarded the Cherokees a judgment in "the sum of \$14,789,475.15 which is the difference between the fair market value" of the six-million-acre tract sold in 1891 and the consideration received. This is the largest sum ever awarded by the commission.

Earl Boyd Pierce, an attorney for the Cherokees, said: "The five articles exhaust the subject in suit. Dr. Chapman richly deserves the deep gratitude of not only the attorneys of the Cherokee Nation, but also of the whole Cherokee people."

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in a quiet, peaceful, and orderly manner" across the Outlet to the northern border of the district. The Indians were given to understand that by the passage through the Outlet there was no disposition to appropriate their lands. The Secretary of War directed that after the passage of the emigrants, troops should scout the Outlet and require all persons unlawfully there to move on, either back into Kansas or over into Oklahoma district. In a telegram from Fort Reno on April 26, General Wesley Merritt recommended that to prevent settlement in the Outlet, authority be given and the statement made that intruders there would have their names taken, and be deprived of the right of lawful entry in case the Outlet were opened to settlement.¹

The agreement which the Cherokee Commission concluded with the Cherokees on December 19, 1891, provided for the relinquishment of all the title, claim, and interest of the Cherokee Nation in and to their lands between the 96th and 100th meridians.² The House Committee on Indian Affairs in reporting a bill to confirm the agreement, sought to dispose of the lands under the homestead laws in a way that the honest homeseeker, though humble and poor, might acquire a good home for himself and family for a small sum and upon terms that would enable him from his own industry to pay for the same.³ The committee referred to the well-founded belief that the lands theretofore opened to settlement in Oklahoma had not fallen to the honest and deserving homeseeker as a rule but, upon the contrary, had fallen largely into the hands of "sooners," land sharks, speculators, race riders, claim jumpers, and townsite grabbers, etc., while the man who wanted and needed a home for the sake of a home had been almost if not universally left. In 1892 the Office of Indian Affairs was informed that for over two years a large number of people had been waiting on the southern border of Kansas for the opening of the lands of the Outlet.⁴

Congressman Charles H. Mansur of Missouri, Governor George W. Steele of Oklahoma, and Secretary of the Interior John W. Noble in the early nineties urgently recommended the opening of the Outlet to settlement, and worked toward that end. The Cherokee Commission concluded agreements with the Tonkawas and Pawnees respectively in 1891 and 1892. But the surplus lands in reservations occupied by these Indians were so small in amount, and prospects for a rush of settlers so

¹ Tel. of April 26, 1889, *S. Ex. Docs.*, 51 Cong. 1 sess., ix (2866), no. 72, p. 12.

² The agreement is in *S. Ex. Docs.*, 52 Cong. 1 sess., v(2900) no. 56, pp. 17-19.

³ Report of June 13, 1892, *H. Reports*, 52 Cong. 1 sess., v(3045), no. 1631, p. 2.

⁴ *Ind. Aff.*, 1892, p. 80.

great, that the opening of the lands was delayed until the Cherokee lands in the Outlet could be opened.¹

The Cherokee agreement stated that if it were not ratified by Congress, and the appropriation of money made as provided therein, on or before March 4, 1893, the agreement should be utterly void. When Representative Samuel West Peel of Arkansas was canvassing his district he assured the people that there would be no opposition to the ratification of the agreement, and that before the spring of 1893 "we would have the lands opened to the honest home-seeker who desires to obtain, before it was everlastingly too late, a little land which he could call his own, and on which to rear his family in his own way."²

Peel was of the opinion that if the life of Principal Chief Joel Bryan Mayes had been prolonged, the agreement would not have been negotiated, at least for the price of about \$8,500,000 if specified for the lands of the Cherokee Outlet. He did not think that a new agreement more favorable to the government could be secured, unless the Cherokees were "coerced; unless the Government, by its strong arm, places them in a position where they have no other alternative." He said if the Cherokees retained the lands and were allowed to lease them, they would receive "a handsome revenue." He added: "They would jump at the opportunity if this Government would allow them to parcel it out and sell it as they please. They would be mighty glad to get that privilege."

On February 3, 1893, a month before the expiration of the ratification period, Peel reported the Indian appropriation bill from the House Committee on Indian Affairs. This was H. R. 10415, and contained nine sections when it passed the House on February 27.³ It was referred to the Senate Committee on appropriations where Amendments 92, 93, and 94 were added.⁴

¹ On November 23, 1892, Judge Warren G. Seyre said: "The Tonkaws agreement only covers a little piece of land twelve miles square and to open that [i.] there would be a hundred white men rushing after every piece of land"; *Proceedings of the councils of the Cherokee Commission held with the Pawnees*, p. 136, NA, OIA, Irregular Size Papers. In his annual report for 1892 Agent D. J. M. Wood said that the Tonkaws reservation was visited almost daily by land prospectors, who were sighing for the land and reporting more than they knew about the condition of the Tonkaws; *Ind. Aff.*, 1892, p. 358.

² *Cong. Record*, Feb. 22, 1893, p. 2018.

³ The nine sections are in *ibid.*, Feb. 27, 1893, pp. 2228-2233.

⁴ NA, Leg. Sec., *Original House Bills*, 52 Cong., nos. 10375-10490; no. 5227; *Original Engrossed Bills*, House, 52 Cong., no. 10415.

The Senate Committee on Appropriations on March 2, 1893, attached a rider, Section 13, providing for the opening of Oklahoma district. Thus the committee initiated two of the most famous riders in Oklahoma legislation; B. B. Chapman, "Oklahoma City From Public Land to Private Property," *The Chronicles of Oklahoma*, Vol. XXVII, No. 2 (Summer, 1956), p. 211.

These amendments constituted a rider providing for the opening of the Cherokee Outlet, the Tonkawa reservation, and the Pawnee reservation.

On March 2 these amendments were listed as Sections 10, 11, and 12 of the Indian appropriation bill.⁹ Peel, Chairman of the House Committee on Indian Affairs, and Henry L. Dawes, Chairman of the Senate Committee on Indian Affairs and ranking member of the Senate Committee on Appropriations, ardently advocated the retention of the rider on the bill.

Senator Bishop W. Perkins of Kansas was Chairman of the Select Committee to Investigate Trespassers upon Cherokee Lands. In support of the rider, he said of the settlers:

In the event that the agreement is ratified, and in the event that there is legislation providing that in the future in some lawful way they may go in and occupy the land and make homes for themselves, they are willing to abide by the conditions of the legislation. It is only in the event that the treaty is ignored and that there shall be no legislation upon the subject that they have resolved they will go in on the 8th of March.

The incoming Administration will be then at once confronted with the armed occupation of that territory and with thousands and thousands to be evicted by military force. Hence the urgent necessity for this proposed legislation. I am satisfied that that people, notwithstanding their anxiety, will cheerfully abide the action of the Executive, and will conform to the requirements of this legislation, in the event that we secure it.

In the Senate there was little opposition to the rider, but in the House it encountered vigorous opposition. Peel had tried to attach the rider when the bill was in the House. He said: "I am receiving telegrams, letters, and petitions praying me for God's sake to do something with the Outlet."

Congressmen opposed to accepting the rider explained that approval of the Cherokee agreement would obligate the government to pay about \$8,500,000 for the lands at a time when treasury funds were low, and when hard times seemed to be near. They echoed a rumor that if the agreement were approved, certain attorneys promoting it would receive \$600,000 of the funds.

Peel challenged the presentation of evidence that attorneys held such claim to Cherokee funds. Popular pressure to open the lands was frequently mentioned, and Delegate David A. Harvey of Oklahoma Territory estimated that "at least 40,000 people" were camping along the border of the Outlet. In regard to payment to the Cherokees for lands in the Outlet, Peel explained that it was the policy of the government to purchase surplus lands and sell them to homestead settlers so that the government

⁹ The amendments are in *Cong. Record*, March 2, 1893, pp. 2362-2383.

would lose no money, "the price which the Indian receives the settler pays."

In reviewing the history of legislation to secure ratification of the Cherokee agreement, Peel said that the Senate Committee on Indian Affairs had reported back a House bill with an amendment to appropriate the money and confirm the agreement. Peel added:¹⁰

But, finding that unless it could be put upon the Indian appropriation bill it was bound to fail at this session, finding that we could not get a chance to reach the original proposition, as the House had failed to nonconcur on the Senate amendment to our bill and go into conference, they put this matter upon the Indian appropriation bill I wanted to nonconcur in the Senate amendment to the House bill and go into conference, and let this question come up on the regular bill that we had reported and acted upon; but the Senate . . . finding that the bill could not be reached in the regular way, knowing the situation of these lands and knowing that hundreds of thousands of home-seekers had left their all and gone there intending to make homes, in the expectation that Congress would live up to its bargain and ratify this contract, and knowing also, as they do, that unless this is done before the 4th of March those settlers will break over into that country, and the Government will have to use the military to put them out, reported this amendment on the Indian appropriation bill with the changes I have explained to the House, and that is all there is to it.

Representative Jeremiah (Jerry) Simpson of Kansas said:¹¹

There is another consideration in this matter; that is, the fact that a large body of unoccupied land lying uncultivated along the southern border of Kansas furnishes the conditions that create hot winds, that when in the summer months the sun beats down on the short grass, the hard earth reflects back the heat that permeates the whole atmosphere and is carried up over the cultivated fields of Kansas, blasting everything in its course.

The steady movement westward of the rain belt in Kansas shows that settlement and cultivation increase the rainfall and moisture. That is the experience in all the West, and we firmly believe that if this land is thrown open to settlement and, instead of the great waste of wild prairie there should spring up cultivated fields, it will make a vast difference in the climate in that section of the country. . . .

The opening of these lands serve as a safety valve to our Government and perhaps delay for a time the trouble that is sure to arise from the rapid increase of our homeless people. Already we begin to hear the warning cry of an impending panic, when again we will witness the exodus from the great cities. Will it not be well, then, to have this country ready for the millions of people that will eventually find homes in this territory?

And yet another consideration should move you. It is well known that this great vacant territory is a harbour for lawless people, where they flee from justice, where they can issue forth at times to prey

¹⁰ *Ibid.*, March 2, 1893, p. 2580.

¹¹ *Ibid.*, pp. 2585-2586

upon their neighbors. Open this up and let in the law and light that come with the settlement, with the building of the churches and schoolhouses.

Grant this appropriation, gentlemen, open this territory to settlement, and thereby blot out this dark spot on the map of our fair country, and in time to come the State of Oklahoma will be one of the brightest gems in the starry banner and will complete the foundation on which is being built the great empire of the West, that in time to come will rule the world.

In the House opposition to the rider was sufficient to require two conference committees, the chairmen of which were Peel and Dawes. Peel devoted a considerable part of the last day of his ten years in Congress defending the rider. Dawes asserted that no circumstance should prevent the Senate from ratifying the agreement.

On March 3, the last day of the ratification period, certain representatives voiced interesting complaints about the rider. After the report of the first conference committee, Representative Joseph Edwin Washington of Tennessee, Chairman of the House Committee on the Territories, said that the House members had been "overridden by gentlemen at the other end of the Capitol," and that the agreement should not be "ratified in a conference committee where we do not know what the ratification means."

It seemed to Representative Nelson Dingley of Maine, member of the House Committee on Appropriations, that there was nothing for the House to do but "simply to pass the bill taking the conference report perhaps in the shape it is presented here, if there is to be any legislation in this direction or any appropriation bill passed before the expiration of this Congress today noon." He called the procedure "a vicious system of legislation." Representative Benton McMillin of Tennessee observed that it was "getting to be too much the fashion that what the Senate cannot get through in any other way, they propose to put through as riders on appropriation bills." He said that some bills "come back to us here loaded down like camels freighted for the desert." He suggested this procedure: "Let us strip this bill of everything that is not an appropriation for the Indian service, and pass it. Let us not be bulldozed in dealing with it."

Thus it was that the Cherokee agreement, with certain amendments, was ratified by an act of Congress on March 3, 1893.¹² The act provided that the lands so relinquished, except the portion to be allotted as provided in the agreement, should, upon a certain payment to the Cherokee Nation, become and be taken to be and treated as a part of the public domain. But in any opening of the same to settlement, sections sixteen and thirty-six in each township should be reserved for the use and

¹² 27 Statutes, 940.

benefit of the public schools to be established within the limits of such lands. The thirteen and one-half sections in the reserve at the Chillicothe Indian Industrial School were by the act declared not subject to settlement, but reserved for the purposes for which they were set apart in the executive order of 1884. And by the act of the President, in any order or proclamation which he should make for the opening of the lands for settlement, might make such other reservations of lands for public purposes as he might deem wise and desirable.

The President was authorized, at any time within six months after the approval of the act and the acceptance of the same by the Cherokee Nation, by proclamation, to open to settlement any or all of the lands not allotted or reserved, in the manner provided in Section 13 of the act of March 2, 1889, opening the lands of Oklahoma district.¹³ Congress provided that the land opening should be subject to the provisions of the act of May 2, 1890, and also subject to certain provisions concerning county lines and school-land leases in the act of March 3, 1891,¹⁴ except as to so much of said acts as might conflict with the provisions of the act of March 3, 1893. Each settler on the lands so to be opened to settlement as aforesaid should, before receiving a patent for his homestead, pay to the United States for the lands so taken by him, in addition to the fees provided by law, the sum of \$2.50 per acre for any land east of 97½ degrees, the sum of \$1.50 per acre for any land between 97½ and 98½ degrees, and the sum of one dollar per acre for any land west of 98½ degrees, and should also pay interest upon the amount so to be paid for said land from the date of entry to the date of final payment therefor at the rate of four percent per annum.

Among provisions of the act of March 3, 1893, was one not found in any of the acts providing for the first four land openings in the Territory of Oklahoma. The novel provision was in the rider when it was introduced in the Senate and there approved as part of the Indian appropriation bill. The provision stated that no person should be permitted to occupy or enter upon any of the lands therein referred to, "except in the manner

¹³ 25 Statutes, 1005; *Atkinson et al. v. Sykes*, 25 L. D. 504 (1897). One who made in the Outlet a homestead entry which he subsequently abandoned, was not entitled to make another entry in the Outlet under the provision of Section 13 of the act of March 2, 1889, authorizing second entries, incorporated into the act of March 3, 1893; *Ballantyne v. Harmon*, 37 L. D. 188 (1908). However, lands in the Outlet were subject to the provisions of the acts of June 5, 1900 (31 Statutes, 367), and April 29, 1904 (33 Statutes, 527), relating to second homestead entries; *Phillips v. Thomas*, 37 L. D. 151 (1908). See also *Martin E. Lancaster*, 29 L. D. 246 (1899); *Frederick Huster*, 29 L. D. 372 (1899).

¹⁴ Act of May 2, 1890, 26 Statutes, 81; act of March 3, 1891, *ibid.*, p. 1028.

prescribed by the proclamation of the President opening the same to settlement"; and any person otherwise occupying or entering upon any of said lands should forfeit all right to acquire any of said lands.¹⁵ The Secretary of the Interior should, under the direction of the President, prescribe rules and regulations, not inconsistent with the act, for the occupation and settlement of said lands, to be incorporated in the proclamation of the President, which should be issued at least twenty days before the time fixed for the opening of said lands. This provision was in the rider when it was introduced in the Senate.

The act of March 3, 1893, which ratified the Cherokee agreement, also ratified the Tonkawa agreement of October 21, 1891, and the Pawnee agreement of November 23, 1892, and declared the lands thereby acquired to be a part of the public domain. The act provided that sections sixteen and thirty-six should be reserved for school purposes, and that lands not so reserved should be opened to settlement by proclamation of the President at the same time, and in the manner, and subject to the same conditions and regulations provided in the act for the opening of the lands acquired from the Cherokee Nation. And each settler on the lands so to be opened as aforesaid should, before receiving a patent for his homestead, pay to the United States for the lands so taken by him, in addition to the fees provided by law, the sum of \$2.50 per acre; and should also pay interest upon the amount so to be paid for said land from the date of entry to the date of final payment at the rate of four percent per annum.

Before any of the aforesaid lands should be opened to settlement it should be the duty of the Secretary of the Interior to divide the same into counties which should contain as nearly as possible not less than five hundred square miles in each county. In establishing said county lines the Secretary was by the act authorized to extend the lines of the counties already located so as to make the area of said counties equal, as near as might be to the area of the counties provided for in the act. Five ranges in township twenty, just north of Stillwater, were attached to Payne County.¹⁶ Provisions for the names of counties,

¹⁵ In an opinion of August 28, 1893, John I. Hall, Assistant Attorney General of the Interior Department, held that the Secretary of the Interior could issue permits to persons to go on the Cherokee Outlet before the day of the opening, for the purpose of establishing stores, lumberyards, etc. He noted that the only legal punishment was that such persons should "forfeit all right to acquire any of said lands." Hall's opinion was addressed to the Secretary of the Interior. It is in NA, Int. Dept., 2198 L. and S. R. Div., 1893 also in the Law Library of the Interior Department, *Opinions of Asst. Attorney Gen. of Int. Dept.*, vol. 16, pp. 37-38.

¹⁶ Eugene F. Weigel, a special land inspector, presented the following suggestion to Secretary Noble on July 26, 1891: "The contemplated

and for the location of lands for county-seat purposes were like those belatedly provided for Oklahoma district opened in 1889, and in the lands of the Iowa, Pottawatomie, and Sac and Fox reservations opened in 1891. All reservations for county seats should be specified in any order or proclamation which the President should make for the opening of lands to settlement. The President might establish, in his discretion, one or more land offices to be located either in the lands to be opened, or at some convenient place or places in the adjoining organized Territory of Oklahoma; and to nominate, and by and with the advice and consent of the Senate, to appoint registers and receivers thereof.

Orville H. Platt of the Senate Committee on Indian Affairs said on January 23, 1893, that on the northern line of the Outlet people had been encamped "for months by the thousand" awaiting the opening of the lands.¹⁷ On March 9 S. H. Peters of Mulhall on "behalf of a club of five hundred loyal Democrats," located upon the northern border of Oklahoma district addressed a letter to Secretary Hoke Smith urging the opening of the Outlet in May or June.¹⁸ The letter said in part:

extension of Payne Co. southwardly as reported, would result sooner or later in the removal of the county seat from Stillwater to a point farther south and has caused great consternation among the people there, who have always been loyal to the administration. If the south line could be fixed on the township line between townships 16 and 17, with a view to attaching the odds and ends of the Cherokee Outlet south of the Otoes and Missourias and of the Pawnees to Payne Co. in due time, it would provide for the required area without jeopardizing Stillwater as the county seat"; NA, OIA, L and H. R. Div., Box 881, Okla. Misc. Papers; see also *Oklahoma Week*, March 1, 1893.

On March 2, 1893, Senator William Alfred Peffer of Kansas offered an amendment to the Indian appropriation bill providing that range 1 west, and ranges 1-4 east, in township 20, be attached to and become a part of Payne County. He stated that the citizens of the county asked to have one range of the township on the north added to it. The amendment was agreed to, and became part of the act passed by Congress; *Cong. Record*, March 2, 1893, p. 2396.

¹⁷ *Cong. Record*, 52 Cong. 2 sess., p. 787.

¹⁸ Peters to Sec. Int., March 9, 1893, NA, OIA, 1870 Ind. Div. 1893.

On May 12, 1893, the Department of the Interior received from J. F. Eyer of Stillwater a copy of a petition purporting to represent over two hundred "undersigned citizens of the United States" who were farmers and wished to secure homes of their own. The petition requested the Secretary of the Interior to open the Cherokee Outlet "by allotment that is let a person man or woman entitled to a claim draw a number and register the number of a claim and give them reasonable time to view the claim and see whether it is worth taking or not and if not let him or her return the number and if some one else think they can make a living on the said claim let them file as proscribed by law as there is a large per cent of the land too poor and broken for farming purposes. If opened as Oklahoma and those other Indian lands, the gamblers will get all the good land and the honest person will have no show." Eyer's letter, undated, and the copy of the petition are in NA, OIA, 3761 Ind. Div. 1893.



(From original photo in National Archives)

U. S. Land Office at Berry, Oklahoma Territory, with clerical force and U. S. Deputy Marshals on October 12, 1893.

Many thousands of energetic, intelligent and honest home-seekers are now waiting for the opening of the strip to transform a wilderness into a garden filled with happy homes. A large percentage of the crowd are old soldiers from both armies who insist "the vigor displayed in a military campaign in the sixties would open up the strip to settlement in thirty days" . . . The vigor of youth, strength and energy embodied in the person of the chief of the Department of Interior has given us promise that the dry bones of departmental lethargy may be shaken up and the spirit of "Old Hickory" prevail, Indian tribal relations broken up, and the land rapidly opened to civilization.

The *Norman Transcript* stated that 7,000 families were on the north border of the Outlet waiting for the land opening.¹⁹ The newspaper said:

If the opening is delayed until fall 5,000 people will have to be cared for by somebody. There is no land to rent in this section at rates which will justify the tenant in attempting to put in a crop. Yesterday a correspondent made a drive of twenty miles along the strip country beginning at the Indian industrial school just south of Arkansas City, and proceeding along the Kansas border. Everywhere it was the same story and the same picture.

Camped along every excuse for a stream are dozens of families. They live in shanties, sod houses and prairie schooners, and for the most part their live stock is in prime condition. Out of perhaps a score of these small settlements visited there is not one in which the squatters reported enough funds on hand to last them until fall. They had come to the strip expecting an opening in the spring and had sacrificed everything in order to save their teams, wagons and necessary household effects. All along the route are deserted camps where families had stopped for a time but had been compelled to press on where land could be secured immediately.

Arkansas City has reaped a direct benefit from the people who have come to the edge of the new lands to spend their little surplus in profitless waiting. There is not a vacant house in this town, and in some of them four or five families have located. And between the home seekers and the townsmen and the land sharks bad blood is being stirred up.

The Cherokees issued a deed of relinquishment to the United States for the Outlet on May 17, 1863. The Department of the Interior approved the schedule of allotments for the Tonkawas on April 28, and for the Pawnees on July 10. The making of sixty-two allotments as provided by law, to Cherokees in lands west of ninety-six degrees consumed much time in the minds of impatient whites. It was not until September 7 that the schedule of allotments for the Cherokees was approved. The Department of the Interior in the meantime made preparation for the opening of the lands to settlement.²⁰

¹⁹ "The Strip Boomers," *Norman Transcript*, March 24, 1893.

²⁰ Secretary Smith on March 14, 1863, sent the following telegram to Robert Oder, President of the Board of Trade at Orlando: "Persons seeking to settle on the Cherokee Outlet are strictly forbidden from entering upon or passing through the same and will not be permitted upon the Outlet until it is thrown open to settlement by proclamation

Commissioner S. W. Lamoreaux learned from an official agent that there were thousands of cattle in the Outlet. He asked that the Secretary of War be requested to have them removed and to prevent similar intrusion in the future; Lamoreaux to Sec. Int., May 28, 1893, NA, GLO, *Letter Book* (Secretary), vol. 19, pp. 262-263.

RULES FOR THE LAND RACE

Alfred P. Swineford of Superior, Wisconsin, had served as governor of Alaska, 1885-89. On July 6, 1893, Secretary Hoke Smith appointed him as an Inspector of Surveys General and District Land Offices, at an annual salary of \$2,000.²¹ In Washington on the following day Swineford received instructions directing him to proceed to the Outlet and locate land offices and county seats in the proposed new districts and counties delineated upon a map with which he was supplied; and also to suggest or recommend the number and location of registration booths to be established at points where intending settlers might be expected to enter the Outlet, on the day designated for the opening.

Swineford arrived at Guthrie early in the afternoon of July 14. Immediately he telegraphed Commissioner Silas W. Lamoreaux of the General Land Office that in his opinion the larger half of the Outlet could profitably be added to the "Guthrie and Kingfisher districts."²² He spent several days at Guthrie gathering general information he considered essential to an intelligent prosecution of his work. Being on a duty he considered wholly confidential, he was annoyed by the newspaper press and correspondents who proposed locations for all the county seats and land offices before he had time to begin investigations. Every town and hamlet in Oklahoma Territory appeared to him to be ambitious to possess at least one land office of its own.

On July 18 Lamoreaux advised Swineford by telegram that he must locate all land offices and county seats and be

of the President. Other persons having legitimate business beyond the Strip may pass through the open and known trails and roads, but of the legitimacy of this business the officers of the Army in command must be the judge"; NA, OIA, Ind. Div. (Misc.) *Letter Book* (March, 1893), p. 322.

²¹ The commission is in NA, Appts. Div., Dept. Commissions, vol. 2, p. 179. See also appi. files, nos. 874 and 2227; *National Cyclopaedia of American Biography*, vol. 12, p. 355.

²² Tel. from Swineford to Lamoreaux, July 14, 1893, NA, GLO, A. 7417-1893. A similar statement is in Swineford's letter to Lamoreaux, July 15, 1893, *ibid.*, A. 74677-1893.

Preliminary activities of the government influenced a restless populace in various ways. James Harry Swope who lived at Stillwater told the author that when the stage arrived at 6 p.m. about mid July, 1893, a report was released that the Outlet had been opened officially. He said a part of the Outlet north of Stillwater was promptly occupied.

back to Washington by August 1.²³ In a telegram the next day Lamoreaux said:²⁴

You will merely locate county seats irrespective of amount of land. We will attend to that. Send your recommendations as to number and location of booths. Make selection of county seats in western part of Strip with consolidations of M N O and P in two counties; also locations if they are not consolidated. Locate land offices for the four districts and upon your return we can make such changes as are desirable.

Swineford at once replied that he was fairly convinced that the four western counties referred to in Lamoreaux's telegram should be consolidated.

Starting from Guthrie, Swineford visited the Pawnee country, and the portion of the Outlet between that country and the Arkansas, known as the "flat iron." Then he turned west and examined the lands of the Outlet as far west as Camp Supply Reservation, and Woodward Station on the Santa Fe Railroad. On July 22 he telegraphed Lamoreaux that the township and section corners were obliterated in the vicinity of Pond Creek.²⁵ He reported that it was difficult to estimate the number and locations of booths without knowing how long they would be open before the opening of the Outlet to settlement. In a telegram of July 27 Swineford designated the points at which booths should be located.²⁶ He said:

If put into operation ten days before opening of Cherokee lands for settlement, booths on R.Rs. and trails at points where they enter Strip from north and south will be sufficient. Vise near Arkansas City, Hunnewell, Cameron, Caldwell, Kiowa on Kansas line, near Goodwin station extreme southwestern corner of Outlet where C. and R. I. and A. T. and S. F. Rrs. enter from south north of Hennessey and Orlando, and midway on line between towns nineteen and twenty, range two east. In my opinion no other plan as to booths is practicable.

The map furnished Swineford showed a division of the Outlet into nine counties. It seemed to him that such division could not have been based upon information in the least degree accurate or reliable, especially as to the portion of the Outlet west of range eight, or west of present Lahoma. Swineford was not advised of the length of time the booths would be open prior

²³ Tel. from Lamoreaux to Swineford, July 18, 1893, NA, OLO, Telegrams, vol. 30, p. 121.

²⁴ Tel. from same to same, July 19, 1893, *ibid.*, p. 122; tel. from Swineford to Lamoreaux, July 18, 1893, NA, OLO, A. 75153-1893, cf. footnote 31.

²⁵ Tel. from same to same, July 22, 1893, NA, OLO, A. 75170-1893. Swineford on August 1 said that the reestablishment of township and section corners would seem to be a very necessary preliminary to the opening up of the west half, if not the whole, of the Outlet to settlement.

²⁶ Tel. from same to same, July 27, 1893, NA, OLO, A. 77160-1893. The last named site is just north of Stillwater.

to the date for the opening of the lands to settlement. In the absence of other information he thought desirable, and with a map he considered altogether arbitrary in details, he found it best to take into consideration all matters pertaining to the proper division of the Outlet into counties and land districts, as well as the location of land offices and county seats, and to embody in a general report such other and further recommendations as to the rules and regulations to be formulated for the government of all concerned as to him would appear to be best calculated to prevent fraud and protect the rights of those lawfully entitled to enter upon the lands, when they were opened to settlement.

In a general report of August 1 Swineford recommended that two counties, and not four, be formed from lands of the Outlet west of range eight.¹⁷ He found these lands badly broken up and interspersed with salt plains. He noted the aridity of the country and observed that not more than twenty-five percent of the lands at that time were adapted to agriculture. The only land he thought likely to be settled upon was an occasional quarter section where the settler expected to use government lands for grazing purposes free of cost to himself. The only towns he thought likely to flourish in the region north of Camp Supply Reservation were those already founded and inhabited solely "by prairie dogs, owls, and rattlesnakes." Concerning lands of the Outlet between the Arkansas and range eight west, Swineford wrote:

Here will be the great rush for lands and town lots on the day designated for the opening of the lands to settlement, and I do not think it extravagant to estimate the number of persons who will enter this part of the Strip within the first twenty-four hours at 15,000. Already thousands of intending settlers are at the line impatiently awaiting the day and hour when they can legally enter upon and occupy these lands, and the number is rapidly being augmented.

Swineford withdrew his recommendation of July 14 that the limits of Kingfisher land district be extended to include lands in the Outlet. However he still thought that the eastern half of the Outlet could well be attached to the Guthrie land district. He noted that if the Department of the Interior should arrive at a different conclusion, a proper division would locate land offices at Alva, Woodward, and at places he designated for county seats near the present sites of Perry and Enid. It appeared to him that the Beaver district land office in the panhandle of Oklahoma Territory might well be consolidated with the new one to be established at Woodward.

Swineford designated seven locations which he recommended

¹⁷ Swineford to Lamoreaux, Aug. 1, 1893, S. Ex. Docs., 53 Cong. 2 sess., (1893), no. 37, pp. 2-9.

as desirable lands, for county seats. Lamoresux said the tracts Swineford reported known as Round Pond, Enid, and Perry had been nearly or completely surrounded by Indian allotments, the selections for the same having been made of lands adjacent and contiguous to the tracts selected as townsites.²⁴ The Interior Department selected five other tracts for townsites. The county seat of Grant County was moved south from Pond Creek Station (near Jefferson) to present Pond Creek, about three miles. The county seat of Garfield County was moved south from Enid Station about three miles to Enid. The county seat of Noble County was moved southwest about five miles to Perry, both locations being on the Santa Fe Railroad. The county seat of Kay County was moved north from Kildare, about six miles to Newkirk, both locations being on the railroad named. The county seat of Woods County was moved west about three miles to Alva. The President's proclamation of August 19 opening the lands to settlement approved these changes. Lands Swineford designated at Woodward were, in the proclamation, embraced in a half section reserved for county seat purposes; and a quarter section he designated at the Pawnee agency was likewise included in lands so reserved.

Swineford was of the opinion that the plan of establishing booths at all the principal points of entry into the lands to be opened, at which intending settlers should be required to appear and prove, by affidavit or otherwise, their qualifications, was one well calculated to protect honest settlers against the activities of other persons. He recommended that the booths be opened at least ten days prior to the date set for the opening of the lands to settlement, and be supplied with a clerical force sufficient to hear and determine applications of not less than 100,000 persons within the period of ten days. He said that in addition to proof of qualifications, those found to be legally qualified to take lands should be sworn not to enter the Outlet before the hour set for the opening, under the severest penalties within the power of the Interior Department to prescribe. Swineford was of the opinion that the lands for county-seat purposes should be surveyed and platted, and that such lands should be opened simultaneously with those for agricultural purposes.

²⁴ As soon as Swineford's designation at Round Pond and Enid was announced, the Rock Island Railroad Company "induced some Cherokee Indians to take their allotments at these stations and bought them out in the same deal. The Indians not even seeing or caring for the land but only for the money the Rock Island was willing to pay for a chance to speculate in town sites"; G. E. Lemon, "Pond Creek History," *The Chronicles of Oklahoma*, Vol. XXII, No. 4 (Winter, 1944-1945), pp. 452-458. See also Marquis James, *The Cherokee Strip*, pp. 13-15. Jefferson is on Round Pond Creek, a north branch of the Salt Fork of the Arkansas. The location was known as Pond, Round Pond, and Pond Creek Station. See act of Aug. 8, 1894, 28 Statutes, 283.

A portion of the instructions Lamoreaux gave Swineford on August 5 merits quotation:¹⁹

You are hereby empowered and authorized, by direction of the Secretary of the Interior, to give such directions as in your judgment the interests of the Government require and warrant, and you are hereby authorized to make such expenditures, taking proper vouchers for the same, as is necessary to carry out the instructions given you by the Secretary of the Interior orally, and as may be sent you from time to time from the General Land Office and the Interior Department. You will communicate with the Secretary, through the Commissioner of the General Land Office, after facts are ascertained, by telegraph. Additional instructions will be sent you from this office and that of the Secretary. To aid you in carrying out any instructions you may receive you are empowered to call upon such inspectors, special agents, allotting agents, or other officers of this Department, to render you such assistance as may be necessary.

Swineford was instructed to determine the extent to which James W. Duncan, an allotting agent, had completed the work of making allotments to Cherokees in the Outlet, and was instructed to supervise the completion of any of the work remaining undone. On August 15 Secretary Smith telegraphed Swineford to "wire balance of allotments at once." Two days later Lamoreaux telegraphed Swineford to arrange all matters in regard to location of booths, water supply, and temporary buildings or tents.²⁰ On August 18 Smith directed Swineford at once to let contracts for building the four land offices, stating that they must be completed and ready for occupancy by at least September 14.

On August 6 an article in the *Kansas City Journal* entitled, "Hoke Wakes Up," stated that Secretary Smith had decided to set apart a strip one hundred feet wide on the north and south sides of the lands to be opened, for the accommodation of settlers. The article stated that this was for the purpose of defeating land owners in Kansas and Oklahoma, who had been planning to sell rights to settlers wanting to get a favorable start in the race. The recommendation of Swineford that the Outlet be divided into seven counties was approved by the Department of the Interior, and the counties were designated by the letters from K to Q.²¹ Compliance was made with all the terms, conditions, and considerations required by the agreements with

¹⁹ The instructions of Aug. 5, 1893, are in NA, GLO, *Copy Book A, Inspectors*, vol. 3, pp. 1-2.

²⁰ Tel. from Lamoreaux to Swineford, Aug. 17, 1893, NA, GLO, *Telegrams*, vol. 33, p. 228; tel. from Smith to Swineford, Aug. 18, 1893, *ibid.*, p. 234.

²¹ K became Kay County; L, Orant County; M, Woods County; N, Woodward County; O, Garfield County; P, Noble County; Q, Pawnee County.—Roy Gittinger, *The Formation of the State of Oklahoma*, p. 158.

the Cherokees, Tonkawas, and Pawnees, and by the laws relating thereto.

On August 19 President Grover Cleveland issued a detailed proclamation declaring that all surplus lands acquired by agreements with these Indians would at twelve o'clock noon (central standard time) on Saturday, September 16, and not before, be opened to settlement under the terms of and subject to all the conditions, limitations, reservations, and restrictions contained in the agreements, the laws of the United States, and in the proclamation.¹² Tracts declared not to be opened to settlement included lands in reservations occupied by the Osages, Kaws, Otoes and Missourias, and Poncas; lands in the Camp Supply Military Reservation; lands reserved for the use and in connection with the Chillico Indian Industrial School; lands in the Eastern, Middle, and Western saline reserves;¹³ lands in sections thirteen, sixteen, thirty-three, and thirty-six in each township.¹⁴ In each of the reservations for county-seat purposes at Perry, Enid, Alva, and Woodward, one acre of land was set apart by the proclamation as a site for a land office. Four acres in each of the county seats were reserved as sites for court houses. Of importance to many intending settlers was the following provision:

A strip of land, one hundred feet in width, around and immediately within the outer-boundaries of the entire tract of country, to be opened to settlement under this proclamation, is hereby temporarily set apart for the following purposes and uses, viz:

Said strip, the inner-boundary of which shall be one hundred feet from the exterior boundary of the country known as the Cherokee Outlet, shall be open to occupancy in advance of the day and hour named for the opening of said country, by persons expecting and intending to make settlement pursuant to this proclamation. Such occupancy shall not be regarded as trespass, or in violation of this proclamation, or of the law under which it is made; nor shall any settlement rights be gained thereby.

¹² The proclamation of August 19, 1883, is in *Messages and Papers of the Presidents*, vol. 2, pp. 306-327. The proclamation providing for the opening of Oklahoma, district on April 22, 1889, used the words, "twelve o'clock, noon." Confusion resulted because in Oklahoma district central standard time or railroad time was a half hour earlier than meridian time; B. B. Chapman, "The Legal Sooners of 1889 in Oklahoma," *The Chronicles of Oklahoma*, Vol. XXXV, No. 4 (Winter, 1957-1958), pp. 382-415.

¹³ The three large saline tracts in the Outlet were of much greater value than surrounding lands. Commissioner D. M. Browning considered the tracts too valuable to be classed as agricultural lands, and he thought it would be to the interest of the government to reserve them for such disposition as might be thereafter determined upon: Browning to Sec. Int., July 1, 1883, NA, OIA, L. Letter Book, vol. 261, pp. 230-237.

¹⁴ By the proclamation, lands in section thirty-three in each township, not otherwise reserved or disposed of, were reserved for public buildings. Congress ratified the reservation of sections thirteen and thirty-three by an act of May 4, 1894; 28 *Statutes*, 71.

Careful examination of this language raised the perplexing question of how a strip "around and immediately within the outer-boundaries of the entire tract of country, to be opened to settlement under this proclamation," could be on the east one hundred feet "from the exterior boundary of the country, known as the Cherokee Outlet." The ninety-six meridian was commonly referred to as the eastern boundary of the Cherokee Outlet, and the act of March 3, 1893, referred to it as such.

The strip "temporarily set apart" was never surveyed or marked out by any authority, and each intending settler was left to ascertain its location.

By treaties of 1828 and 1833, the Cherokees acquired a home tract of seven million acres and "a perpetual outlet, West." It seems that from the treaty of 1866 an impression arose that the 96th degree of longitude was the dividing line between the home and the outlet tracts. In 1892 Commissioner Thomas J. Morgan observed that the western boundary of the home tract had "never been ascertained, and no man knows to this day where the 'home' ceases and the 'outlet' begins."¹⁵ The Cherokees had about five million acres east of the 96th degree, or east of present Bartlesville.

In 1889 the Cherokee Commission was authorized to treat with the Cherokees for their lands west of the 96th degree of longitude. By an act of May 2, 1890, Congress set forth conditions under which "the land known as the Cherokee outlet" might become a part of the Territory of Oklahoma. In prescribing the boundaries of the Territory, the Ponca, Tonkawa, Ojibwa and Missouri reservations were included, and the "Cherokee outlet" was given as one of the boundaries. The Cherokee Commission on January 9, 1892, in reporting their agreement with the Cherokees referred to "the Osage and Kansas reservations, the Tonkawa, Ponca, Pawnee, and Ojibwa reservations, and the Cherokee Outlet." Contemporary maps, including one issued under the direction of the General Land Office in 1892, designated the Cherokee Outlet as substantially identical with the territory opened to settlement by the President's proclamation of August 19, 1893. In this confusion lay the eastern end of the "Cherokee Outlet," the most valuable of the lands to be opened.

The proclamation provided that in the 100-foot strip, five booths should be on the northern border of the Outlet, and four should be on the southern border. Each booth should be in charge of three officers detailed by the General Land Office. The booths should be opened for the transaction of business on September 11, and should remain open each business day until

¹⁵ Morgan to Sec. Int., Jan. 26, 1892, *S. Ex. Docs.*, 52 Cong., 1 sess., v(2800), no. 63, p. 15.

they were discontinued by the Secretary of the Interior. Each party desiring to enter upon and occupy as a homestead any of the lands to be opened to settlement was required to first appear at one of the booths, and there make a declaration in writing to be signed by the party in the presence of one of the officers in charge thereof, which declaration should be certified by such officer. The declaration was a printed form showing the qualifications of the party to initiate a claim on said lands. When the declaration was properly presented, the officers in charge of the booth should issue to him a certificate permitting him to occupy or enter upon the lands after the hour of noon on September 16. The officers of the United States were expressly charged to permit no party without a certificate to occupy or enter upon any of the lands until after the discontinuance of the booths.

Appended to the proclamation were four forms of declarations, known as A, B, C, and E. Form A was for use by one intending to make a homestead entry; form B was for one intending to file a soldier's declaratory statement; form C was for one intending to file a soldier's declaratory statement as agent for a soldier; and form E was for one intending to settle upon a town lot. Declarations A, B, and E included a statement by the prospective settler that he had not entered upon or occupied the lands to be opened to settlement in violation of the proclamation, and that he would not so enter upon or occupy the lands.¹⁴

The proclamation designated two certificates, known as forms D and F. Form D should be issued to parties making declarations upon forms A, B, and C, and form F to parties making a declaration upon form E. Certificates were nontransferable. The holder of a certificate should display it on demand, after locating on a claim.

Declarations made before the officers in charge, should be given consecutive numbers beginning at one at each booth, and the certificate issued to the party making the declaration should be given the same number as was given the declaration. When the booths should be discontinued, the declarations, together with certain affidavits required of agents in filing soldier's declaratory statements, should be transmitted to the General Land Office for filing as a part of the records pertaining to the dis-

¹⁴The forms of declarations were published in local newspapers, as the clerks would not have time to explain them to the parties at the booths. The forms or proclamation of the President appeared in such papers as the *Oklahoma State Capital*, *Guthrie Daily Leader*, *Guthrie Daily News*, *Oklahoma Press Gazette*, and the *Oklahoma Times Journal*. The *Guthrie Daily News* carried a list of allotments claimed by the Pawnees and Tonkawas, giving the location of each allotment. Exhibits of publication and correspondence concerning same are in NA, Int. Dept., Appt. Div., Okla. Ter. Papers, box 202.

posal of the lands.¹⁷ The certificate was evidence only that the party named therein was permitted to go in upon the lands opened to settlement by the proclamation after the hour of noon on September 16. The certificate of form D should be surrendered when application to enter or file was presented to the district officers, and the party's right to make a filing, homestead entry or settlement should be passed upon by the district land officers at the proper time and in the usual manner. The holder of such certificate should be required when he made his homestead affidavit, or if a soldier or soldier's agent, when he filed a declaratory statement at the district office, to allege under oath before the officers taking such homestead affidavit, or to whom his declaratory statement was presented for filing, that all the statements contained in the declaration made by him, upon which said certificate was based, were true in every particular.

The proclamation set forth the homestead and townsite laws as they applied to lands in the Outlet.¹⁸ The lands were divided into the districts of Perry, Enid, Alva, and Woodward with provision for a land office at each of the places named. It was stated that no person should be permitted to occupy or enter upon any of the lands to be opened, except in the manner prescribed by the proclamation; and that any person otherwise occupying or entering upon any of said lands should forfeit all right to acquire any of said lands. The period of inhibition as

¹⁷ Before a settler acquired title to a homestead he was required to make an affidavit that he had not entered upon and occupied any portion of the lands described and declared open to entry in the president's proclamation, prior to noon on September 16, in violation of the requirements of the proclamation. The affidavit, and the certificate permitting the party named therein to go in upon the lands, are in many cases found with the other papers of successful applicants in the public land files of the General Land Office. The affidavit, coming later than the declaration, superseded it in importance. It appears that the declarations were destroyed.

¹⁸ A homestead claimant in the Outlet would not jeopardize the right to perfect his claim by discovering gas, oil, or coal on the land and utilizing the same to his advantage, provided he complied in good faith with the law; *Ann. Rept., Gen. Land Office, 1896*, p. 83.

By the provisions of the President's proclamation the town lot settlers were required to qualify. Jacob V. Admire, Receiver of the Kingfisher land office, said: "Heretofore in the settlement and occupancy of town-sites in Oklahoma, as well as in Kansas, no special qualifications have been required of settlers and occupants, and men and women, those under age, as well as those over age,—those who had heretofore taken town lots and homesteads, as well as those who had not, were held to be 'qualified' to settle upon in person, or otherwise occupy or hold town lots. Under this practice there has been practically no limitation upon townsite settlers. Men were permitted to make entry of homesteads, and then, either before or after, settle upon, occupy and make final proof upon town lots." Admire to Sec. Int., Aug. 23, 1883, NA, Int. Dept., 9473 L. and R. R. Div. 1883.

to occupying or entering upon said lands began with the date of the proclamation, August 19, 1893.⁴⁰ The proclamation was the first notice to the public that all the conditions of the act of March 3 of that year had been complied with and that the act had become fully operative.

On August 21, Swineford pointed out means he considered necessary for the prevention of soonerism and for the successful prosecution of those who attempted it.⁴¹ The next day Secretary Smith telegraphed him that "no mistakes must be made and offices and booths must be ready for occupancy a day or so before time set."⁴² Swineford in a letter to Lamoreaux on August 24 gave the exact locations of the nine booths, the approximate locations of which he had stated in the telegram of July 27.⁴³ After "careful consideration" it was his opinion that 80,000 persons would apply at the booths. He considered it unsafe to discount the figures he gave more than fifteen percent in deciding upon the number of clerks that "must" be sent to the different booths. On August 28, he telegraphed Lamoreaux that it would "not be safe to figure on less than 75,000 at booths."⁴⁴

In accordance with an order of the President, notice was given on August 25 of the establishment of the four land dis-

⁴⁰ *Townsite v. Morgan et al. and Same v. Trough et al.*, 21 Land Decisions 496 (1895).

⁴¹ Swineford to Lamoreaux, Aug. 21, 1893, NA, GLO, A. 84567-1689. The body of the letter is quoted in Appendix following Part I of this article.

⁴² Tel. from Smith to Swineford, Aug. 22, 1893, NA, GLO, *Telegrams*, vol. 39, p. 258.

There was nervous excitement among intending settlers. On August 3 a reported telegram that it would be well to fall in line caused "about 400 bipeds of all colors and sizes" immediately to make a rush for the front door of the Guthrie land office; "A Senseless Mob," *Daily Oklahoma State Capital*, Aug. 4, 1893. The same paper on August 22 estimated that a thousand homeseekers were camping within a radius of five miles of Arkansas City. Some had been there long enough to arrive almost at "the dignity of local citizenship."

⁴³ Letter of Aug. 24, 1893, NA, GLO, A. 87794-1890. Swineford estimated the number of persons for each booth as follows; No. 1, north of Stillwater, 1,500; No. 2, north of Orlando, 10,000; No. 3, north of Hennessy, 12,000; No. 4, south of Goodwin, and a mile north of Higgins, Texas, 2,000; No. 5, at Klowa, Kansas, 12,000; No. 6, south of Cameron, Kansas, 10,000; No. 7, near Caldwell, Kansas, 7,000; No. 8, near Hunnwell, Kansas, 8,000; No. 9, south of Arkansas City, 12,000.

Swineford stated the locations and accommodations, as is illustrated by Booth No. 8, located near Hunnwell on the northeast corner of the NW 1/4, Sec. 18, T. 29 N., R. 2 E. "Good water within twenty rods. Clerks can find board at house of J. F. Johnston—hotel."

For the role played by southern Kansas towns in the opening of the Outlet see, Jean C. Lough, "Gateways to the Promised Land," *Kan. Hist. Quart.*, Vol. XXV, No. 1, (Spring, 1959), pp. 17-21.

⁴⁴ Tel. from Swineford to Lamoreaux, Aug. 28, 1893, NA, GLO, A. 88138-1893.

D.

CERTIFICATE

That must be held by party desiring to occupy or enter upon the lands opened to settlement by the President's proclamation of August 19, 1893, for the purpose of making a homestead entry or filing a Soldier's Declaratory Statement.

No.

3636

Booth in T.

SEP 13 1893

TOWNSHIP 20 N., R. 3 E.

M. T.

1893.

This certifies that P. J. Eckroat has this day made the declaration before me required by the President's proclamation of August 19, 1893, and he is, therefore, permitted to go in upon the lands opened to settlement by said proclamation at the time named therein, for the purpose of making a homestead entry or filing a soldier's declaratory statement.

It is agreed and understood that this Certificate will not prevent the district land officers from passing upon the holder's qualifications to enter or file for any of said lands at the proper time and in the usual manner, and that the holder will be required when he makes his homestead affidavit, or, if a soldier or a soldier's agent, when he files a declaratory statement at the district office, to allege under oath before the officer taking such homestead affidavit, or to whom said declaratory statement is presented for filing, that all of the statements contained in the declaration, made by him, upon which this Certificate is based, are true in every particular.

George McCorkle

Officer in charge.

This Certificate is not transferable. The holder will display the Certificate, if demanded, after leaving or riding.
(1893-9 25) 4-26.

Certificate issued to Peter P. Eckroat at Booth No. 1, North of Stillwater. The date and location were inserted with a rubber stamp and red ink. The officer in charge was George McCorkle. Eckroat proved up on a quarter section ten miles east of Perry.

tracts in the Cherokee Outlet, and of the location of the land offices therein.⁴⁴ On September 1 the registers and receivers of the land offices were instructed to reject any homestead application or declaratory statement presented by a party not holding a certificate before the day upon which the booths were discontinued.⁴⁵ If, however, any person claimed to have received a certificate at one of the booths and lost it, the registers and receivers were instructed to require him to make a statement under oath setting forth the day when, and the location of the booth where he received such certificate, and the number of the same if possible. The matter then should be transmitted to the General Land Office which would determine whether such certificate had been issued, and decide what action should be taken.

(To be continued)

APPENDIX

Letter of August 21, 1893, Swineford to Lamoreaux, pointing out problems in making preparations for the opening of the Cherokee Outlet Lands.

"The people appear to be much pleased over the measures the Department is understood to have determined upon in order to insure as far as possible a 'fair deal' in the opening of the Cherokee lands to settlement. It appears to me, however, that it may be just possible that a few details of importance may be overlooked. The booth system will not achieve all that is expected of it, unless certain other precautions are taken to prevent 'soonerism' on the one hand, and provide evidence for the prosecution of the 'sooters' on the other. I trust, therefore, I may be excused for venturing a few suggestions which may or may not have had consideration of the Department.

"In my opinion, a guard, either of soldiers or deputy marshals should be stationed at each booth for the purpose of preserving order, and making note and taking the names and descriptions of persons who fail to properly substantiate their claims to recognition under the rules and regulations. Such persons, many of them at least, being denied certificates, will not scruple about entering the strip without having proved their qualifications.

"The Ponca and Osage and Missouri reservations should be patrolled by the cavalry several days before and up to the day of the opening, and effectually cleared of all intruders, and a small guard should be stationed at the stations of the Santa Fe and Rock Island railroads to prevent 'sooters' from dropping off the regular trains, if,

⁴⁴ The notice is in *Ann. Rept. of Gen. Land Office, 1893*, pp. 138-139. On the day the proclamation was issued, August 19, 1893, President Cleveland by an executive order directed that the land office at Beaver be discontinued, and its business and archives transferred to the Woodward land office.

⁴⁵ Instructions of Sept. 1, 1893, 17 L. D. 225-230. The instructions listed, as accurately as possible, the tracts of lands crossed by rights of way of railroads. In *H. Ex. Docs.*, 53 Cong. 1 sess., (3150), no. 27, there is a map dated September 3, 1893, showing the quarter sections of the Outlet, reserved and unreserved, east of 98 1/2 degrees. Booths, counties, railroads, and townships are shown.

as I have been informed the Companies have agreed not to run any specials on that day. There are men who will not hesitate to jump from trains running at an average rate of speed, and collusion between 'sooners' and the trainmen is not unlikely, in which case a low rate of speed at certain points—on grades, for instance—would serve the purpose of the first named.

"Ferry, where a land office is to be located, is within a short distance of the Ocoe and Missouri reservation, and unless proper precaution is taken, hundreds of disqualified persons will go there the night before the opening and lay in hiding ready to make a rush for the choice lots. They will go as 'sooners,' or agents for others, and it will require the utmost vigilance to keep them out. Why would it not be a good plan, in addition to what I have suggested, to have two good reliable men stationed at each principal townsite, who shall be instructed to take names and full descriptions of all persons arriving up to, say two hours after the hour set for the opening, noting the exact minute when they arrive. No one can legitimately arrive (if there are no railway trains) in less than an hour and a half after hour named in proclamation at any of the townsites—and if it is announced that measures will be taken in advance to secure evidence against 'soonerism' the effect will be to deter a great many from attempting anything of the kind.

"I have a well grounded suspicion that a great many 'sooners' will attempt to hide themselves among the Pawnees, and with the Cherokee allottees, east of the Pawnee reservation. In my opinion, a company of cavalry should be sent to that section several days before the opening with instructions to clear out all persons not actual residents.

"What I mean by 'sooners' applies to all persons who enter the strip before the hour announced for the opening. A great many persons, having proved their qualifications, and received their certificates will then attempt to violate the law and the regulations, by finding a hiding place near the towns, or the lands they wish to secure—these are the ones most to be feared, or rather who will need to be looked after most carefully."

On August 25, 1889, Swineford sent Lamoreaux the following telegram: "Have you thought of providing against counterfeiting of certificates issued at booths? Every possible scheme will be adopted to defeat booth plan."—NA, CLO, A. 88764-1893.