

OPENING OF THE CHEROKEE OUTLET:  
AN ARCHIVAL STUDY

By Berlin B. Chapman

Part Two\*

"THERE MUST BE NO FAILURE"

As September 16 approached, Commissioner Lamoreux felt increasing anxiety that work of the government should not be so swamped that all qualified applicants at booths could not receive certificates. Emmett Womack of Georgia was reporter of land decisions in the office of the assistant attorney general for the Interior Department. He was given charge of registration on the south side of the Outlet. When he telegraphed Lamoreux on August 30 that it would be necessary to increase the number of men at the booths to accommodate the vast number of men seeking to enter the Outlet, Lamoreux replied that not only could "additional help" be secured to sign certificates, but that Womack might use his discretion in establishing an additional booth within the 100-foot strip on the south side of the Outlet.<sup>46</sup>

Michael A. Jacobs, Chief Clerk of the General Land Office, was a supervisor of registration on the north side of the Outlet. On September 5 he telegraphed Lamoreux that he thought plenty of clerks had been detailed to register applicants at the booths and that he could see no good reason for estimating over 50,000 entries.<sup>47</sup>

When Lamoreux on September 8 suggested the matter of securing "additional help" in the signing of certificates, Jacobs wrote from Wichita:<sup>48</sup>

\*Part I of this article is in *The Chronicles of Oklahoma*, Vol. XI, No. 2 (Summer, 1962), pp. 156-181. It reviews legislation leading to the opening of the Cherokee Outlet, and gives the rules for the land race, September 16, 1893. Sites for booths, land offices, and county seats were located by Alfred P. Swineford under direction of Silas W. Lamoreux, Commissioner of the General Land Office.

<sup>46</sup> Tel. from Womack to Com. Gen. Land Office, Aug. 30, 1893, NA, OLO, A. 89653-1893; tel. from Lamoreux to Womack, Sept. 2, 1893, NA, OLO, Telegrams, vol. 30, p. 323; tel. from same to same, Sept. 6, 1893, *ibid.*, p. 356; tel. from same to same, Sept. 7, 1893, *ibid.*, p. 368.

<sup>47</sup> Tel. from Jacobs to Lamoreux, Sept. 5, 1893, NA, OLO, A. 92071-1893.

<sup>48</sup> Tel. from Lamoreux to Jacobs, Sept. 8, 1893, NA, OLO, Telegrams, vol. 30, p. 397; letter from Jacobs to Lamoreux, Sept. 8, 1893, NA, OLO, A. 89899-1893; tel. from Womack to Lamoreux, Sept. 8, 1893, A. 92911-1893.

A newspaper correspondent at Arkansas City said in part: "Every train from the North arrives here overcrowded with hundreds of

"I do not think we will have to hire any outsiders, but am pretty well satisfied the clerks with the surveying help we can get is sufficient. Arkansas City will be the worst place of all, then Orlando, and Caldwell or Hennessey. The balance will not be crowded very much. People here think that Perry will have 5,000 inhabitants in 10 days."

On the same day Womack reported that all the booths were erected. The *New York Times* on September 7 carried a news article from Arkansas City stating that the plan of entering registrations at booths was adopted by "those who never saw this land and who apparently had no conception of the privations and sufferings entailed upon the prospective land seekers, who necessarily obey orders regarding registration":

The nine booths are on the open prairie, away from water, with no food available, and without shelter of any kind. Under the orders issued there will necessarily be assembled at each of these places from 2,000 to 5,000 people. As all who contemplate securing lots on the Government sites are placed on the same footing regarding registration as those who seek farms, there will not only be much suffering, but there will inevitably be many deaths resulting from exposure to sun and weather.

On September 11 Womack wrote to Lamoreux that the article was "without any foundation whatever".<sup>49</sup> He said that the correspondent writing the article was "the only paper man who applied to go in and occupy the Strip and of course I refused him. Knowing full well at the time that he would give the administration a stab, for he was very indignant at my refusal." In a postscript Womack wrote: "The opening will be a success."

Congress by a joint resolution of September 1, extended to the Outlet the provisions for townsite entries provided for Oklahoma district by the act of May 14, 1890.<sup>50</sup> On September 9 Swineford recommended that special trains be allowed to run to county-seat towns on schedules of eleven miles an hour, or on

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passengers, yet the rush to the Cherokee Strip has but just commenced. The two roads entering the Strip, the Rock Island and the Santa Fe, find it more difficult to handle the crowds than they did at the time of the great Oklahoma opening four years ago. The great rush will be for Perry, only twelve miles from the south line of the Strip. Houses have been built in sections, and sufficient goods to supply a city of 20,000 people are all ready for transportation. Perry now contains perhaps a dozen officials, which will be its population until noon on Sept. 18. By 8 o'clock that day there will be at least 10,000 people camped on the town site and a bustling city will appear where the chipmunk now chatters at the moon"; *New York Times*, Sept. 7, 1893, p. 8.

<sup>49</sup> Letter of Sept. 11, 1893, NA, OLO, A, 96788-1893.

<sup>50</sup> Joint resolution of Sept. 1, 1893, 28 Statutes, 11; act of May 14, 1890, 26 Statutes, 109.

schedules which stated their arrival at designated places at a fixed time.<sup>51</sup> He stated that unless this was done thousands of honest homeseekers would be outstripped by as many less deserving persons with fast horses. The trains could be inspected before starting, and only persons holding certificates would be allowed to ride them. Swineford said the railroad companies would strictly observe a schedule prescribed by the Department of the Interior.

In an order of September 11 Secretary Smith directed that no railroad train be permitted to enter the Outlet during the six hours before the time of opening.<sup>52</sup> For three hours after said time of opening trains should be allowed to enter the Outlet only under the following regulations: 1. They must be for general use, and not leased or chartered to any favored passenger or passengers. 2. The trains should be stationed at the edge of the lands to be opened at least thirty minutes before the hour of noon on September 16, and should not be entered by passengers earlier than thirty minutes before the hour of opening. 3. No one should enter a train as a passenger unless he held a certificate from one of the booths. 4. The trains might start upon lands of the Outlet any time after the hour of opening. 5. Trains must stop at every station, and at intermediate points not more than five miles apart. 6. The trains should be limited to fifteen miles per hour. 7. The regular local rates of passenger charges should not be exceeded. 8. No one should be allowed to board the trains after they entered the Outlet. On the day the order was issued, Swineford was at his headquarters at Guthrie, superintending arrangements for the opening of the lands to settlement.<sup>53</sup>

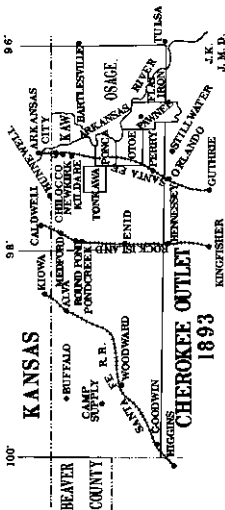
On Monday, September 11, the nine booths, five on the northern border of the Outlet, and four on the southern border, were opened to persons desiring to make declarations in anticipation of the land opening at noon on Saturday. Forty-five clerks were detailed from the General Land Office to take charge of the booths.<sup>54</sup> The booths were kept open to the public from seven a. m. to six p. m. each business day. Soon after they were

<sup>51</sup> Tel. from Swineford to Lamoreux, Sept. 9, 1893, NA, GLO, A. 101594-1023.

<sup>52</sup> The order of Sept. 11, 1893, is in NA, Int. Dept., Lands and R. R. Div., Press Copy Book, vol. 270, pp. 302-303; see also H. Ex. Docs., 53 Cong., 1 sess., (3450), No. 27, p. 54.

<sup>53</sup> Swineford made trips to various parts of the Outlet as occasion required. See his weekly report, Sept. 11, 1893, NA, GLO, A. 95316-1023.

<sup>54</sup> One of the clerks was Anthony P. Rice, who in 1907 became head of the Homesteads Division of the General Land Office. About 1895 Rice wrote an eight-page account of "The Opening of the Cherokee Outlet, Oklahoma." A copy is in the Oklahoma Historical Society. An excerpt concerning Perry is in the *Perry Daily Journal*, September 14, 1900.



Map of the Cherokee Outlet in 1892, showing the places and Indian reservations mentioned in Dr. B. B. Chapman's article on the land opening in 1893.

opened the rush of business necessitated additional clerks, who were selected largely from the crowd of applicants assembled before the respective booths. New booths were also constructed at places where the crowds were greatest.<sup>51</sup> There was an unprecedented rush of applicants due in part to the extensive advertising of railroad companies and the misleading statements of the public press as to the quality of the lands and the method of obtaining title thereto. Excessive heat and prolonged drouth continued during all the time the booths were open and for more than a week after the lands of the Outlet were opened to settlement. Prairie fires were numerous. Heat and thirst caused considerable suffering among the crowds. Not all the booths were close to an adequate supply of water. Prospective settlers just south of Cameron, Kansas, were permitted to enter the Outlet for water under rigid restrictions.<sup>52</sup>

Three telegrams Lamoreux sent Swineford on Thursday,

Received information this morning from you and others that it will be impossible to register all who apply. Why was this not reported to department before? Have telegraphed you full instructions and orders, two or three times to hire sufficient force. Now that time is half over you say people are suffering and thousands in line, when you have full authority to establish additional booths with force enough to handle crowds. If booths established are insufficient why is it you men are not attending to business and carrying out instructions and orders of this office? Every man must have opportunity to register irrespective of cost. Hire men sufficient to handle crowds and establish booths wherever necessary and do so at once. Department feels that you men are not doing your duty in this matter. We are receiving many dispatches stating that you have not properly posted yourselves as to number of people intending to register. From this on you will employ sufficient force to carry on work. Report by wire twice daily.

<sup>51</sup> There are three articles by Joe B. Milam on "The Opening of the Cherokee Outlet," in *The Chronicles of Oklahoma*, Vols. IX, X (Sept., 1931, to March, 1932). Milam relied heavily on materials in contemporary newspapers, and produced a readable and valuable account of the opening. He noted the establishment of a booth at Guthrie about September 14, 1893.

The question of establishing additional booths came before the Department of the Interior in the case of *O'Hornett v. Waugh et al.*, 28 L. D. 257 (1899). It was contended that Lon O'Hornett was disqualified as an entryman by having obtained his booth certificate from a booth at Arkansas City, which was illegally established by the Secretary of the Interior, such location not having been provided for by the proclamation. Secretary E. A. Hitchcock said: "Conceding the irregularity of this action, it could not tend to disqualify O'Hornett, and appellants can not be heard to question the validity of the order of the Secretary, as it is not shown that O'Hornett gained any advantage over appellants by reason of having obtained his certificate at that place."

<sup>52</sup> Capt. George A. Dodd to Lieut. Col. Dangerfield Parker, Oct. 5, 1893, *H. Ex. Docs.*, loc. cit., p. 83.

September 14, are self-explanatory, and are so imperative that they merit quotation.<sup>17</sup> In the first telegram Lamoreux said:

In the second telegram Lamoreux said:

You say you have been failure in registration. There must be no failure. If necessary hire five hundred men and work night and day. There is no such thing as failure in this matter. You are on ground and can hire force enough. Secretary and myself will admit of no failure, and hold you responsible as you have been given full authority to carry out provisions of proclamation. If you have not ability to do this we must find one who has. Every man must be supplied with certificate who applies. Report at once.

In a third telegram Lamoreux said:

Dispatch received. You state condition of things but give no remedy. Why are you at Guthrie and not on line assisting our men at booths and hiring additional men? There must be no failure in this matter. You must not leave everything to Jacobs. See that sufficient men are hired at booths. Am surprised at your telegram giving conditions and suggesting no remedy. You are on ground and have full instructions and power to proceed to meet all contingencies as they arise. Why don't you do it? Shall expect better reports from you tomorrow.

On the same day Lamoreux sent similar telegrams to Jacobs and Womack. To Jacobs he said: "Every man must have opportunity to register. These are orders of Secretary. Am surprised you have misted us in this matter and that you and Swineford have not seen to these matters and fully carried out instructions."

To Womack, Lamoreux said: "Hire enough men to man booths fully so that every man can get certificate who desires one. Keep us fully posted."<sup>18</sup> Lamoreux admonished Swineford, Jacobs, and Womack to "Work your force day and night."<sup>19</sup>

In the National Archives a casual exploration among thousands of homestead papers filed in the opening of the Cherokee Outlet indicated the rate of registration at various booths. On September 14 at Booth No. 2 north of Orlando, Certificate No. 14,892 was issued. Sometime during that day Booth No. 9 south of Arkansas City issued Certificate No. 12,370. The next day Certificate No. 10,892 was issued at Booth No. 1 north of Stillwater.

Two telegrams Lamoreux sent on September 15 give light

<sup>17</sup> The three telegrams are dated September 14, 1893, and are in NA, OLO, Telegrams, vol. 30, pp. 471-473; 477-478; 483-494. The first dispatch was repeated to Womack, at Orlando; *ibid.*, p. 473.

At Arkansas City on September 14 cattlemen held a meeting and prepared a telegram to President Cleveland, stating that "registration is a farce." The telegram said in part: "A conflict between parties that are not registered and troops is imminent unless the system is abandoned." The telegram is included in the article, "Tired and Angry Boomers," *New York Times*, Sept. 15, 1893.

<sup>18</sup> NA, OLO, Telegrams, vol. 30, p. 482.

<sup>19</sup> Tels. of Sept. 14, 1893, *ibid.*, pp. 483-485.

on the matter of jurisdiction on the borders of the Outlet. He telegraphed Jacobs at Arkansas City as follows:

I have given Womack instructions to take charge of registration on south line and it seems he has done so in satisfactory manner and all people there will be registered. Am sorry to learn you interfered with registration there, being so far away, as it seems north line was neglected. Womack had full authority to act and I supposed you gentlemen would act in conjunction and harmoniously.<sup>60</sup>

In a telegram to Womack at Guthrie, Lamoreux said: "I congratulate you upon the manner in which you have conducted registration on south line. You had full authority to act irrespective of Mr. Jacobs and am very glad you did so. Mr. Jacobs should not have interfered with instructions given you."

It was reported that all applicants at the booths received proper consideration, and about 115,000 certificates were issued. When we note that surplus lands in the Outlet would make less than 40,000 homestead claims of 160 acres each, and that a large part of the western half of the Outlet was unsuitable for homesteads because of aridity, it is evident that the certificates numbered nearly three times the claims upon which they could be used.<sup>61</sup>

Troops under the direction of the War Department had the important and difficult duty of guarding the borders of the Outlet to prevent trespassing upon the lands prior to the hour of the opening. Lieutenant Frank M. Caldwell with forty cavalrymen patrolled a line seventy miles long, just south of Arkansas City. He found it impossible to patrol his district in a proper manner, and he was convinced that there were many sooners in the Outlet at the time of the opening. Swineford stated that many would-be sooners were driven out of the Outlet during the period of registration, and that others evaded the vigilance of the comparatively small force of cavalry on duty. In his opinion the entire strength of the cavalry arm of the United States Army would hardly have been sufficient to prevent all sooners at the opening.<sup>62</sup>

A most perplexing question was whether intending settlers could make the run from the east side of the lands to be opened. The act of March 3, 1893, provided that the Secretary of the Interior should prescribe rules and regulations, not inconsistent with the act, for the occupation and settlement of the lands, to be incorporated in the proclamation of the President, which should be issued at least twenty days before the time fixed for

<sup>60</sup> Tel. from Lamoreux to Jacobs, Sept. 15, 1893, *ibid.*, vol. 31, pp. 9-10; tel. from Lamoreux to Womack, Sept. 15, 1893, *ibid.*, p. 11.

<sup>61</sup> *Ann. Rept. Gen. Land Office, 1894*, p. 101.

<sup>62</sup> Swineford to Capt. J. M. Lee, Oct. 11, 1893, *H. Ex. Docs., 10c, 611*, pp. 77-78.

the opening of the lands. Lamoreux on August 14 advised Swinford that no entry would be permitted from the Osage and Creek countries.<sup>61</sup> The proclamation of August 19 placed no inhibition on intending settlers from making the run from any Indian reservation, nor did it state that the 100-foot strip did not lie along the eastern side of the lands to be opened.

On August 23, George W. Miller of the 101 Ranch addressed a letter to Agent James P. Woolsey of the Ponca agency expressing the opinion that it would not be a good idea to allow prospective settlers to enter upon the Indian reservations to make the run for the Outlet, because the fencing which belonged to the Indians would be destroyed and the cattle would be scattered causing considerable loss to the men whose money had been accepted by the Department of the Interior for the Indians in payment of leases.<sup>62</sup> Miller knew that if the "boomers" entered upon the reservations they would "tear down the fences and stampede the cattle." He thought the proposed 100-foot strip around lands in the Outlet to be opened would do very well, except along the west side of the Ponca and Otoe reservations. In accordance with Miller's request for protection, Woolsey on August 26 submitted the matter to the proper authorities, adding that he did not think it was a good idea to allow people to enter upon the reservations to make the run.

In the meantime A. C. Harding and S. M. Riddell, publishers at Arkansas City, raised the same question. John I. Hall, Assistant Attorney General, on August 28 gave the Secretary of the Interior an opinion on the matter.<sup>63</sup> He observed that the Cherokee treaty of 1866 contained a provision that all persons not in the military service, not citizens of the Cherokee Nation, were prohibited from coming into the Cherokee Nation or remaining in the same except as provided in the treaty, and were to be removed as required by the Indian Intercourse laws. Hall said: "These laws require the United States to promptly remove all persons prohibited from going upon the lands of the Cherokee Nation, and to use force for the purpose of accomplishing their removal." He noted that the Cherokee agreement of December 19, 1891, ceding the Outlet declared that all citizens of the United States not residents or legally employed in the Cherokee Nation, should be deemed to be intruders. Hall said that these references showed clearly certain points:

<sup>61</sup> Tel. of Aug. 14, 1893, NA, GLO, Telegrams, vol. 30, p. 210.

<sup>62</sup> Miller to Woolsey, Aug. 23, 1893, NA, OIA, L. 22316-1893; Woolsey to Com. Ind. Aff., Aug. 26, 1893, *ibid.*

<sup>63</sup> Hall to Sec. Int., Aug. 28, 1893, NA, Int. Dept., 2014 Lands and H. R. Div. 1893, filed in box #70. Secretary Smith signed the opinion below Hall's name.

Harding and Riddell published the *Cherokee Strip Guide* from May 20 to September 1, 1893. Some copies are in the Kansas State Historical Society.



... persons cannot enter upon the Indian Territory for any purpose except that specified in the treaty, or by express permission of the United States authorities, without violating the terms of said treaty. The Department of the Interior has control over the Indian Reservations, and you not only have the authority to prohibit persons going upon these reservations for the purpose of making what is called "the run" into the Cherokee Outlet on the day of the opening, but, in my opinion, it would be your duty to take such measures as would effectually prevent any such trespassing on the part of the people who expect to enter the outlet for the purpose of making settlement.

Hall gave the opinion nineteen days before the opening. On the same day Secretary Smith said in a letter to Harding and Riddell: "You wish to know whether it will be permissible for parties desiring to make homestead entries to go upon the Osage and Ponca Indian reservations contiguous thereto, for the purpose of entering upon the Outlet at the appointed time. They will not be allowed to do so."<sup>66</sup>

It is well to examine some of the communications concerning settlers making the run from the eastern limits of the lands to be opened. Acting Secretary John M. Reynolds on August 30 advised Watson J. Mendenhall of Eldorado, Kansas, that settlers would not "be permitted to enter the Strip from any Indian Reservation," nor would settlers be permitted to cross the Outlet before the hour of opening.<sup>67</sup> On September 1, Reynolds instructed Thomas J. Crooks, United States Commissioner, that homeseekers would not be allowed to enter the Outlet from the Osage reservation.<sup>68</sup> Commissioner Lamoreux on September 4 said that the Secretary of the Interior had ordered that "no person be permitted to enter the Outlet from the eastern boundary."<sup>69</sup> Of particular importance was the following inquiry made by Womack on September 4:<sup>70</sup> "There is great clamor for department construction. Does the one hundred feet strip run around the eastern border of tract open to settlement, and will people who lawfully occupy that portion of the strip have a right to go in from there or is the one hundred feet strip limited to the north, south and west lines of lands to be settled?"

On September 5 Lamoreux telegraphed Womack that "the hundred feet cannot be laid off on the East side, and the run made from that side without interfering with Indian reservations

<sup>66</sup> Smith to Harding and Riddell, Aug. 28, 1893, NA, Int. Dept., Lands and R. R. Div., *Misc. Letter Book*, vol. 273, p. 297.

<sup>67</sup> Tel. of Aug. 30, 1893, *ibid.*, p. 295; tel. from Mendenhall to Sec. Int., Aug. 29, 1893, *ibid.*, 9773 Lands and R. R. Div. 1893.

<sup>68</sup> Reynolds to Crooks, Sept. 1, 1893, *ibid.*, *Rec. Letters Sent*, vol. 128, p. 55.

<sup>69</sup> Tel. from Lamoreux to Robert Callison, Sept. 4, 1893, NA, GLO, *Telegrams*, vol. 30, p. 239.

<sup>70</sup> Tel. from Womack to Lamoreux, Sept. 4, 1893, NA, GLO, A. 81769-1893; tel. from Lamoreux to Womack, Sept. 5, 1893, NA, GLO, *Telegrams*, vol. 30, p. 343.

Settlers will not be permitted to enter  
the strip from any Indian Reservation,  
nor will settled be permitted to cross  
the strip before the hour of opening.  
Booths will be arranged on the  
Kansas side and also on the Oklahoma  
side of the strip. J. M. Reynolds,  
Acting Secretary.

54  
Paid G. R.

(Copy from National Archives)  
Telegram of August 30, 1892, to Watson J. Mendenthal

and Indian allottees. The run therefore should not be made from the East side of the Outlet." These instructions were communicated to the officers of the army and of the land department charged with the duty of enforcing the rules and regulations governing the occupation of the Outlet, and were by them given general publicity.<sup>71</sup> The telegram of September 5 was published in the newspapers; but it was signed by Lamoreux, and did not purport to be given under the authority of the Secretary of the Interior. No penalty was prescribed for those who entered on lands from the east side of the Outlet in disregard of the order.

Lamoreux on September 6 telegraphed Womack that the 100-foot strip would be allowed around the Chillicothe Indian school reservation, and the strip was accordingly occupied by intending settlers.<sup>72</sup> Secretary Smith on September 7 said in a telegram to Ray Hoffman: "Settlers cannot make the run from any Indian reservation nor will the hundred feet reserve extend around the boundaries of any Indian reservation."<sup>73</sup> In a telegram on September 13 he advised Ned C. P. Gould that there was no 100-foot strip on the east side of the Outlet.<sup>74</sup> Smith's telegrams were not addressed to officers of the government, but evidently to private citizens. Swineford advised local military authorities that no run was permissible from the Osage or Creek countries, and that legal entry could be made from Kansas, Oklahoma, and Texas only.<sup>75</sup> The General Land Office continued to advise inquirers that no person would be allowed to enter from the eastern boundary, lands in the Outlet to be opened to settlement.<sup>76</sup> On September 15 Acting Commissioner Edward A. Bowers wrote at least three letters to this effect.

In general, it can be said that Assistant Attorney General Hall's opinion of August 28 was approved by the Department of the Interior, which sent out several letters and telegrams, mostly

<sup>71</sup> *Cagle v. Mendenhall*, 20 L. D. 446 (1895).

<sup>72</sup> Tel. of Sept. 5, 1893, NA, GLO, *Telegrams*, vol. 33, p. 347. Secretary Smith later observed that the lands of the Chillicothe reservation could not properly be termed those of an "Indian reservation," because they were lands of the United States and not lands which Indians had a right to occupy and use. The lands were reserved by the United States for Indian school purposes; *Welch v. Butler*, 21 L. D. 389 (1895). Settlers on the south side of the Chillicothe reservation enjoyed an advantage over those on the Kansas line. See statement of Corporal George Morris, Oct. 2, 1893, *H. Ex. Docs.*, loc. cit., pp. 36-39.

<sup>73</sup> Tel. of Sept. 7, 1893, NA, Int. Dept., Ind. Div., *Misc. Letter Book*, vol. 81, p. 343.

<sup>74</sup> Tel. from Smith to Gould, Sept. 13, 1893, NA, Int. Dept., Lands and R. R. Div., *Misc. Letter Book*, vol. 276, p. 369; see also Brady et al. v. Williams, 21 L. D. 533 (1896).

<sup>75</sup> Tel. from Swineford to Lieut. Col. Dungenfield Parker, Sept. 13, 1893, *H. Ex. Docs.*, loc. cit. p. 80.

<sup>76</sup> See Letters by Bowers, Sept. 13 to 16, 1893, NA, GLO, *Oklahoma Copy Book*, vol. 18.

to private individuals, advising them on request, that the run could not be made from any Indian reservation. The Secretary of the Interior gave the public no official notice to this effect. It appears that dispatches sent out by his department were in response to requests for information, and were without any hearing from parties interested adversely. A careful reading of the documents concerned is convincing that if the prohibition in communications sent out by the General Land Office relative to making the run from the east side of the lands to be opened, was to have the force of law, it should have been included in the rules and regulations of the Secretary of the Interior, and incorporated in the proclamation, issued at least twenty days before September 16.

### THE ECHO OF FAUD

The surplus lands of the Outlet were opened to settlement at the time stated in the proclamation of the President. Trains filled rapidly. At Arkansas City the attempt of trainmen to examine registration certificates was soon given up because it was necessary to give all their time to collecting tickets. Governor William C. Renfrow wrote: "No such a wild exciting run for homes was ever yet made as when the guns fired the signal at 12 o'clock noon, September 16, and yet all was orderly and not many were hurt."<sup>77</sup> Many horses ridden in the race had been trained for it, and were accustomed to being ridden over prairies for long distances.<sup>78</sup> Riders on fleet horses left behind railroad trains, which were carrying passengers at the speed of fifteen miles per hour.<sup>79</sup> A few months after the opening Renfrow esti-

<sup>77</sup> *Ann. Rept. Gov. of Oklahoma, 1893, H. Ex. Docs., 53 Cong., 2 sess., xv (3211), p. 480.* At twelve o'clock, noon, on September 16, 1893, the Outlet became a part of Oklahoma Territory and its laws governed from that time. On September 16 Swinford was at Orlando and Perry, and returned to Guthrie that night.

<sup>78</sup> At Arkansas City a correspondent to *The New York Times* wrote on September 6, 1893: "On the race track adjoining the city could be counted at one time this forenoon forty-three men riding horses on the run, a daily practice to harden them. Among those thus exercising their horses was a colored woman weighing about 200 pounds, who was one of the fleetest riders on the track. She proposes to secure a homestead, and, judging from present indications, her red plumes waving over her black face and neck will be seen among the very first in the race of the 16th."

<sup>79</sup> *Ridings, The Chisholm Trail, p. 546.* For a human presentation of the opening of the Cherokee Outlet, including stories related by persons who took part in it, see *The Last Run: Kay County, Oklahoma, 1893, Stories Assembled by the Ponca City Chapter, Daughters of the American Revolution (Oklahoma Daughters), Ponca City Chapter; J. S. Wade, "Uncle Sam's Horse-Race for Land: The Opening of the Cherokee Strip," The Chronicles of Oklahoma, Vol. XXXV, No. 2 (Summer, 1957), pp. 147-153; "Into the Promised Land," New York Times, Sept. 17, 1893; "The Cherokee Strip," The Oklahoma Magazine, vol. 3 (March, 1896), pp. 135-138.*

mated the population of the Outlet as 100,000. Many of the intending settlers were at the land opening for speculative purposes. Some settlers went to their homes a few days later, and returned the next spring to lands they claimed in the Outlet.

On September 16 Commissioner Lamoreux by telegrams directed that the booths must not be discontinued until the order to do so was received from the Secretary of the Interior.<sup>40</sup> On September 19 Secretary Smith directed that the booths be discontinued, and on the same day Lamoreux by telegram directed that all booths be discontinued at once.<sup>41</sup> In spite of the booth system, and all that faithful officials could do, there were a vast number of sooners who took possession of some of the best lands and lots. Renfrow asked that no effort be spared to bring sooners to justice. He reported that registration at the booths had been a useful check upon fraud. Smith believed that while the booth system necessitated some hardships and suffering on the part of intended settlers, it prevented to a large extent the wrongful occupancy of land by people who were not entitled to settle thereon, which wrongful occupancy marked the opening of Oklahoma district in 1889. Lamoreux was satisfied that the booth system was the best that could have been devised under the law by which the surplus lands of the Outlet were opened to settlement. But neither he nor Smith thought the manner of opening was satisfactory. Both considered it advisable, when further large tracts of land were opened to settlement, for Congress to provide by auction, lottery, or otherwise, means necessary to prevent the unseemly rush which had occurred at important land openings in the Territory of Oklahoma.

The booth system with its registration and certificates received little commendation at the hands of historians. According to Buchanan and Dale, the scheme of having every person who expected to run for a claim, to register in advance, "proved a failure."<sup>42</sup> Thoburn and Wright found that every intending settler visited one or more booths and registered before making his way into the country to be opened. "In fact," they wrote, "registration certificates were regarded as a huge joke by all of the 'sooners'."<sup>43</sup> A newspaper correspondent observed that

<sup>40</sup> Tels. of Sept. 18, 1893, to M. A. Jacobs, Emmett Womack, and A. P. Swineford, NA, OLO, *Telegrams*, vol. 31, pp. 24-26.

<sup>41</sup> Smith to Com. Gen. Land Office, Sept. 19, 1893, NA, Int. Dept., Lands and R. R. Div., *Rec. Letters Sent*, vol. 128, p. 131; tel. from Lamoreux to Jacobs, Sept. 19, 1893, NA, OLO, *Telegrams*, vol. 31, p. 234.

<sup>42</sup> J. S. Buchanan and E. E. Dale, *A History of Oklahoma*, p. 219; E. E. Dale, *Oklahoma, The Story of a State*, p. 246. "As expensive as disgusting," *The Norman Transcript*, Sept. 20, 1893.

<sup>43</sup> J. E. Thoburn and Muriel H. Wright, *Oklahoma: a History of the State and its People*, (New York, 1929) Vol. 2, p. 536.

Swineford on September 25, 1893, wrote from Guthrie: "During the week of registration charges were freely made that certificates from

men who had the fastest horses rode from the border "only to find other men with sorry-looking animals ahead of them. Fast teams carrying anxious homeseekers were driven at break-neck speed only to find men on the land who had gone in afoot. Every precaution had been taken to keep out the 'sooner' element, and yet that element, profiting by former experiences, had captured the land."<sup>43</sup>

The long wait and intense excitement weighed heavily on the respect intended settlers had for laws. Some persons secured certificates and then entered the Outlet illegally; others secured certificates and transferred them to persons who entered before noon on September 16. Perry was eight miles from the border of the Outlet, yet seven minutes after the opening a hundred horsemen were on the townsite.<sup>44</sup> J. F. Eyles of Stillwater, from direct acquaintance with the situation, wrote that it was a "hard matter to get a sooner off for the (y) sware to anything at all so the (y) reach their end in view." A local newspaper observed that the average sooner knew that "for half a pint of whiskey the United States soldier can almost invariably be fixed and while the deputy marshal comes higher he can usually be had at some price."<sup>45</sup>

the Orlando booth were being sold in Guthrie and elsewhere for a money consideration. That the charges were true I have every reason to believe, but I have not been able so far to obtain the least particular of evidence tending towards the implication of any one or more of the clerks sent out from the Genl Land Office. It appears that a lawyer of this city named Volney Hoggatt was the principal in the nefarious business, and that the certificates, to all appearances properly stamped and issued, were in some manner obtained by a man named Daugherty, a former clerk in the Genl Land Office, who was associated with Hoggatt in doing business at the Orlando booth. Whether the blank certificates were stolen after being stamped, and the signatures forged, or whether there was collusion between Daugherty and one or more of the clerks I am unable to say, nor do I think it will be possible to obtain any conclusive evidence one way or the other.—Swainford to Lamoreux, WA, GLO, A. 107833—1893.

According to a news release from Guthrie, the registration booths at Orlando were robbed of certificates and the official stamp on the night of September 15, and on the following day thousands of forged certificates were on the market; "Into the Promised Land," *New York Times*, Sept. 17, 1893.

<sup>43</sup> *Ibid.*

<sup>44</sup> Thoburn and Wright, *op. cit.*, p. 357.

<sup>45</sup> *The Daily Oklahoma State Capitol*, July 17, 1893.

In *H. Ex. Docs.*, 63 Cong., 2 sess., (3180), No. 27 there is an interesting collection of documents on the role a regiment and a half of the United States army played in the opening of the Outlet. One reads statements by soldiers telling how they refused bribes of money and whiskey on the prairie where "the air was constantly filled with black dust and as hot as though it came from a furnace"; also statements by citizens telling how soldiers were bribed for one or two dollars. The troops probably did their duty with usual efficiency and integrity.

Booth No. 1, designated by Swineford on August 24, was three miles north of Stillwater, and probably reflects a situation typical of booths on the border of the Outlet.<sup>87</sup> James Harry Swope of Stillwater was employed to help keep in order lines of registrants at the booth. He said that a long line of persons had not registered when the hour came to open the Outlet.<sup>88</sup> Swope said:

I left home each morning at daylight and returned home at night. At one time the line of registrants was three-fourths of a mile long. At another time there were four lines of registrants. I was associated with about five men who "rode the line". . . . Various devices were used by some registrants to avoid standing in line. Favored persons would take lunch or a drink of water to the clerks, and register while in one of the tents. Those who could not register by closing time in the evening remained in line all night to retain their places the next day. Soldiers kept order among registrants during the night. I reported to a man by the name of Captain Harris. . . . I was not paid for the week I was hired and so far as I know other additional men were never paid. Probably 20,000 or 30,000 persons were at Stillwater at the time of registration. When the Outlet was opened, not only did this group disperse, but Stillwater lost about half of its resident population.

Captain John B. Johnson reported that the great majority of the people were well behaved and orderly, but that stringent measures were necessary on the part of the troops to prevent delay in the transaction of booth registration. He said:<sup>89</sup>

At Stillwater booth, where probably the roughest element had congregated, at the instigation of Corp'l Tolin, the registration clerks gave up half of their dinner hour, and worked after 5 p.m. as long as they could see, in order to register the sick and women who were taken from

<sup>87</sup> Swineford to B. W. Lamoreux, Aug. 24, 1893, NA, GLO, A 87766-1893. In 1960 the Committee on Historic Sites, under the auspices of the Oklahoma Historical Society, placed an on-site marker where Booth No. 1 was located. Photographs of this booth and of other booths are in the collection of Robert E. Cunningham of Stillwater.

<sup>88</sup> Swope's memoir is in B. B. Chapman's, *Founding of Stillwater*, Appendix B.; Swope said the booth consisted of two or three tents probably secured from a military camp, each tent covering a space about fourteen by twenty feet. He thought that persons who had the immediate supervision of the booth spent too much time in hotel lobbies, or in gambling in the tents. He recalled that among authorities in Washington, the name of Hoke Smith was most frequently mentioned by registrants—"and how they cursed him!"

Mrs. Jessie Alvin Baker said of registration at the booth: "Well, everybody who reads at all knows the trouble at the booths. I saw the men in double line a mile long, staying in line day and night with their friends bringing them something to eat and drink"; *Indian—Pioneer History*, vol. 19, p. 149.

Alex. H. Matheson said: "We tried to buy some groceries at Stillwater in the morning before the run started at noon, but there was not a bite of food to be bought as they had sold everything in stock"; *Ibid.*, vol. 6, p. 437. Other references to registration at the booth are in *Ibid.*, vol. 4, p. 468; vol. 5, p. 375; vol. 96, p. 276.

<sup>89</sup> Johnson's statement, Oct. 7, 1893, *N. E. Docs.*, loc. cit., pp. 48-49.

the line where found. This action on the part of the corporal was heartily cheered by the mob.

After the run, most of the settlers made meagre improvements on the land they claimed and then rushed to the local land office to file a homestead entry as required by law. Within a few minutes after the hour of the opening, lines of people were formed before each of the district land offices, and those at Perry, Enid, and Alva rapidly grew in length until there were over 5,000 persons in line at each of the places, waiting to make homestead entry. According to Sam P. Ridings, persons in these lines formed themselves into companies of one hundred each, elected a captain for each company, and then each man was assigned a number. Each took his number and felt free to return to his home or to his claim and await his turn. Newspapers printed the numbers, showing the last number that was filed each day. Thus parties were enabled to keep track of the time when they would be reached in the process of filing.<sup>90</sup> Many weeks elapsed before the lines were broken. But apparently all applicants for homesteads had an opportunity to file applications within the period of three months after the opening, as was required by law.

Swineford on September 25 suggested that the object sought to be attained by the registration of settlers could be greatly promoted if a number of the best special agents were detailed to ferret out the sooners. He said that a large number of sooners arrived with certificates and were holding down claims in the hope of being able to sell relinquishments before the expiration of the time fixed by law in which they must make their filings. Swineford wrote:<sup>91</sup>

The registration has done much good in the way of protection to the honest homeseeker, but has not entirely accomplished and could not under the circumstances, be expected to accomplish, all that was desired in that direction. A few agents can, in my opinion, very materially further the original aim of the Department to make the opening a fair one—there will be a scattering of sooners as soon as it is known that the Department is on their trail, with the intent of bringing all who can be caught to justice.

In compliance with instructions from Lamoreux, Swineford on September 25 made a report on the charges of improper conduct on the part of officers in the opening of lands of the Outlet.<sup>92</sup>

<sup>90</sup> Sam P. Ridings, *The Chickahom Trail*, p. 541. The same practice of assigning numbers was said to have been used on a smaller scale at the registration booths before September 15. A. M. Thomas, "The Opening of the Strip," *The Chronicles of Oklahoma*, Vol. XXII No. 4 (December, 1943), p. 423; *Ann. Rept. Gen. Land Office, 1894*, p. 102.

<sup>91</sup> Swineford to Lamoreux, Sept. 25, 1893, NA, GLO, A. 108276—1893.

<sup>92</sup> The report of Sept. 25, 1893, contains eight pages, and is in NA, GLO, A. 107933—1893. James C. Caldwell was a member of the Board of Regents of Oklahoma A. and M. College. On September 8, 1893, he



The name of James C. Caldwell of Kingfisher appears most prominent in the report filled with charges of improper conduct on the part of many persons. It was charged that Caldwell, in collusion with two men by the names of Dent and Cutlip, had manipulated the line of homesteaders at the Enid land office to his own pecuniary advantage. The plan said to be pursued by Caldwell was to issue cards about one and a half inches by two and a half inches in size.<sup>11</sup> The cards contained the following words: " Official No. \_\_\_\_\_ in line at U. S. Land Office Enid, Ok. Chief Dep 'ty U.S. Marshal." With pencil one could insert a number and initial the signature of the Chief Deputy. Swineford said that for the cards recipients were charged 10 cents each:

This alone, considering that more than 8,000 were issued, netted a neat sum of money but that was far from satisfying their greed. The line was organized into companies of say, 80 each—A, B, C, etc. In issuing the cards ten or fifteen numbers in each company would be held out at intervals, and kept for sale to those having the most money to offer. The numbers thus withheld were sold at prices ranging all the way from \$5 to \$50; but even that did not appear to appease Caldwell's appetite, for he is charged, through collusion with the guard at the door, with having jumped persons having no numbers at all to the head of the line.

On the day Swineford made the report, Caldwell sent the following telegram to Commissioner Lamoreux:

Before any action is taken in regard to holding my commission, would refer you to Gov. [William C.] Renslow, Secy. [Thomas J.] Lowe, Judge Henry W. Scott, E. L. Dunn, Mayor of Enid, Atty. Gen. C. A. Calbreith. I have not done anything but what was honorable, but have been misrepresented to Gov. Swineford by Populists and dissatisfied Republicans. If necessary, wire me at Kingfisher, O. T.<sup>12</sup>

On September 25 Swineford was able to report that affairs were progressing much more satisfactorily to all concerned:

... save and except a few jack-leg land shysters calling themselves lawyers, who will be satisfied with nothing short of the privilege of

was appointed receiver of the Kingfisher land office, at the expiration of the term of Jacob V. Admire.

<sup>11</sup> Harry Bacon of Oklahoma City was charged with pursuing the same plan at the Perry land office. Swineford said: "But as near as I can get at it his greatest success was secured by hiring men at day wages to stand in line or hold numbers, the place in line or number to be yielded to the purchaser willing to buy, as a great many were and are. This man Bacon made his boasts some days prior to the opening. I am reliably informed, that he would make \$20,000 out of it." Complaints were made to Swineford that "repeaters" in the line at booths would sell their certificates, and take places again and repeat the operation.

<sup>12</sup> Telegram from Caldwell to Lamoreux, Sept. 25, 1893, NA, Int. Dept., Appl. Div., Registers and Receivers, box 498. It is with a fat file of recommendations and petitions made in the spring of 1893 urging the appointment of Caldwell. He served a term of four years as receiver and was succeeded by Admire.

running the land offices to suit themselves exclusively. . . . The air is full of charges against both the civil and military officials who were connected with the opening of the Cherokee ceded lands, but with the exception of the foregoing cases and that of the shooting by a soldier on the line near Arkansas City, none, in my opinion, come from sources in the least degree worthy of notice. This is a country of chronic "kickers," and I do not hesitate to aver on my own individual responsibility that can truthfully boast more able-bodied liars and unconscionable scoundrels to the square mile than [any] other section of the United States of which I have any personal knowledge. Every jack-leg lawyer, and his name is Legion, is surcharged and running over with advice as to what should or should not be done, and the government official who refuses to hearken to it in whole or in part, but goes independently about the honest, conscientious discharge of his duty is certain to merit and receive the largest measure of their condemnation and abuse. The tales of hardship and suffering sent out during the week of registration were in the main tremendous exaggerations; so well and plausibly told that in one instance I was myself though only a few miles distant from one of the alleged scenes of suffering, deceived into believing them. The registration was successfully accomplished, the opening of the strip confessedly more in the interest of the honest homeseeker than any which preceded it, (if he now pursues the advantage afforded him by the registration), and the Department has much more reason for self congratulation than for annoyance or worryment over the wailings of those who hoped and worked for a dismal failure in place of the gratifying success which has been achieved in the face of unforeseen difficulties.

A proposed Congressional investigation of civil officials connected with the opening and sale of the Cherokee ceded lands disturbed Swineford a good deal. In a telegram to Lamoreux on October 7 he said that "if official rottenness is sought to be exposed it must be looked for in connection with openings prior to that of September sixteenth. There is a rich mine to be found in that direction."<sup>55</sup> On October 9 he complained that with the exception of a single dispatch from the Secretary of the Interior, in reply to one of his own, and two from Lamoreux, he had not received a line or word from the Department of the Interior since September 18, and had been left to grope in the dark concerning matters of which it appeared he should have direct and full information.<sup>56</sup> Swineford did not get along well with Horace Speed—"the hold over U. S. District Attorney"—and E. N. Woodson, Probate Judge of K county, both of whom he accused

<sup>55</sup> Tel. from Swineford to Lamoreux, Oct. 7, 1893, NA, GLO, A, 162272—1893.

In a letter to Lamoreux on October 12, 1893, Swineford urged that the proposed investigation be extended to include an inquiry into all the previous openings of public lands in Oklahoma Territory, because it would turn the tables upon the persons who were clamoring loudest for an investigation of the opening of the Outlet. He claimed to have enough evidence to cause Horace Speed "to be indicted for open and flagrant violation of law"; NA, GLO, A, 165826—1893.

<sup>56</sup> Swineford to Lamoreux, Oct. 9, 1893, NA, GLO, A, 164400—1893. The date Swineford named in the report is *dim*, and may be September 18.

of improper if not illegal activities relative to the opening of the lands.

### THE LAND OFFICE BUSINESS

Settlers were less able and anxious to pay for land in the Outlet than they were to locate on it. The panic of 1893 increased the difficulty. The Department of the Interior expected payment to be slow. In August, Acting Secretary John M. Reynolds considered it "most improbable that all the first entries will be made for permanent settlement," and continued:<sup>47</sup>

By July 1, 1894, 21,193 homestead entries and 1,326 soldier's declaratory statements had been recorded at the land offices in the Outlet. There were also about 5,000 cases needing action by the General Land Office, because of a question as to the rights of the respective applicants, or because of conflicting claims to the same tract, before the entries could be allowed. In addition to the seven towns established upon lands reserved in the Outlet for county seats, over thirty towns had been established upon lands embraced in homestead entries, and applications made to commute the entries for townsite purposes under the provisions of Section 22 of the act of May 2, 1890.<sup>48</sup>

In 1902 the land districts of Perry and Enid were discontinued as such. The records and business of the land offices of the districts were transferred to Guthrie and Kingfisher respec-

<sup>47</sup> Reynolds to Sec. of the Treasury, Aug. 30, 1893, NA, Int. Dept., Lands and E. N. Div., *Rec. Letters Sent*, vol. 128, pp. 46-49.

On the contrary looking to experience of the Department in land matters it is safe to say that not over one-third of the first entrymen will consummate their entries by purchase. The contests because of disqualification or other sufficient causes alone will reduce the number. Inability from sickness, impecuniosity, or other causes will induce many abandonments, and the constant temptation to sell out, and relinquish the right of entry, offered by speculators or new comers will reduce the number more than all the other causes put together. Under the law a party might enter a tract, hold it for seven years or less time, and then sell his relinquishment to another who would make entry and who could proceed exactly in the same way, sell to another in six months or six years, and so on indefinitely. . . . On review of the whole subject and giving it the fullest consideration, it is the opinion of this Department that it would not be safe to count upon a receipt of more than one third of the proceeds of the sales before the end of the seven years from the opening of the Outlet to settlement, and of the balance at the end of ten years.

<sup>48</sup> 28 Statutes, 81; *Ann. Rept. Gen. Land O'fice, 1894*, pp. 192-193. In regard to the amount of unreserved lands in Oklahoma Territory occupied from 1894 to 1902, see S. J. Buck, "The Settlement of Oklahoma," *Trans. Wis. Academy of Science, Arts and Letters*, vol. 15, pt. 2 (1907), pp. 352-353. A good study on the settlement of the western part of the Outlet was made by Ralph E. Randels, "The Homesteaders and the Development of Woodward County," *The Chronicles of Oklahoma*, Vol. XVII, No. 3 (Sept., 1939), pp. 206-295.

tively. The Alva district was discontinued in 1908, and the records and business of the office were transferred to Woodward. In 1915 the Woodward office and business were transferred to Guthrie.

At the Alva land office there were 15,508 homestead entries. At the time the office was closed in 1908, about one half of the homesteaders, or 7,576, had proved up by required residence and they received final certificates. There were 1,630 cash entries which included homestead entries commuted to cash, and other purchases of land. Many of the remaining homestead entries may have been brought to completion later at Woodward, but it is probable that the vast majority were canceled. A tract of land might be entered at a land office and later relinquished. Then another homesteader could file an entry for it. Before the passage of the Free Homesteads Act in 1900 a homestead entry might result in a cash entry and a final certificate.<sup>99</sup>

Business of the other offices was as follows:

Land Office	Homestead Entries	Final Certificates	Cash Entries
Enid	11,229	4,445	1,931
Perry	10,863	4,495	1,131
Woodward	20,622	7,440	8,157

Section 19 of the Indian appropriation act of August 15, 1894, affected the portion of the Outlet opened to settlement

<sup>99</sup>An example is that of Madison Pierce who made homestead entry for a quarter section east of Newkirk. At the Perry land office on January 16, 1900, he paid \$489.98, principal and interest, for the land. This is listed as Final Certificate No. 372 and Cash Entry No. 968.

If one knows the location of a tract of public land, he can trace the history of its disposition by use of the tract books. These books represent the most complete index the federal government has to land entries in the so-called public land states. The books date from the time the lands in those states were first offered or opened to entry and are laid off by range and township, and under township by section. Entries are made in the books for each subdivision sold or filed upon. The tract books give a brief abstract of each entry. A typical tract-book page provides space for the following information: description of the tract entered, cost per acre, quantity entered, name of entryman, date and number of the entry, name of patentee, date of patent, recordation of patent, and such other information as is important. Two sets of books were maintained, one in the local land office and the other in the General Land Office in Washington.

The several land offices in present Oklahoma used a total of 75 tract books which are now among the records of the General Land Office in the National Archives. The 72 tract books in the Bureau of Land Management are kept up-to-date and afford better service than those in the National Archives. A micro-film copy of the 72 books is in the Oklahoma Historical Society.

and entry on September 16, 1893.<sup>100</sup> The right of commutation was by this section extended to all bona fide homestead settlers of the Outlet, after fourteen months from the date of settlement, upon the full payment for the lands at the prices provided in the act of March 3, 1893. In 1894 practically all of the available land in the Outlet east of the western line of Grant and Garfield counties had been taken up, the percentage being ninety-eight or above in every county except Pawnee, where it was ninety-five percent. Often there were two or three qualified entrymen on a quarter section. In 1894 six percent of the lands in Woodward county and sixty percent of the lands in Woods county were occupied; by the turn of the century practically all of the available lands in these two counties were occupied.

In 1894, 1896, and 1897 Congress passed legislation extending for three years the time when homesteaders must make final payment for their lands.<sup>101</sup> The Free Homesteads Act passed by Congress on May 17, 1900, accelerated the rate at which settlers in the Outlet proved up on lands.<sup>102</sup> The act provided that all settlers under the homestead laws of the United States upon the agricultural public lands, including those in the Outlet, who had resided or should thereafter reside upon the tract entered in good faith for the period required by existing law, should be entitled to a patent for the land so entered, upon the payment to the local land officers of the usual and customary fees. The act provided that no other or further charge of any kind whatsoever should be required from such settler to entitle him to a patent for the land covered by his entry. It was provided that the right to commute any such entry and pay for the lands in the option of any such settler and in the time and at the prices then fixed by existing law should remain in full force and effect.

Homestead papers in the National Archives give light on conditions in the Outlet at the time Congress passed the act. At the Perry land office in March, 1900, nineteen homesteaders having the required residence, paid for their lands and received final certificates. In April the number of homesteaders was seven. In May two final certificates were issued, both being adjustments for payments made earlier. With free homesteads, land office business increased. The number of persons who received final certificates at the Perry land office in June was 38; in July, 138; in August, 168; and in September, 189.

At the Perry land office the last final certificate, before

<sup>100</sup> 29 Statutes, 336. See also the circular of instructions of January 9, 1895, approved by Secretary Smith and addressed to the registers and receivers of the land offices at Perry, Enid, Alva, and Woodward, in 20 L. D. 1.

<sup>101</sup> Act of July 26, 1894, 28 Statutes, 123; act of June 10, 1896, 29 Statutes, 342; act of June 7, 1897, 30 Statutes, 87.

<sup>102</sup> 31 Statutes, 179; Robert F. Boyce, 31 L. D. 162 (1901).

homesteads became free, was issued to a widow, Mrs. Hester A. Hopkins who on April 28 paid the sum of \$499.83 for a quarter section two miles southeast of Kildare. She made Cash Entry No. 1024 and received Final Certificate No. 421. James Harry Swope, later Stillwater businessman, almost missed federal benevolence.<sup>101</sup> In an affidavit of June 14 he said that the reason he did not make final proof on May 15, "the date advertised, was on account of the sickness of his wife and family." In June the cost to him in proving up on a quarter section seven miles east of Perry was a fee of \$4.00, and \$1.50 for testimony.

After the passage of the Free Homesteads Act, about a hundred cash entries were made at the Perry land office before it was closed on April 1, 1902. These entries were made largely by homesteaders who desired to secure title to lands without residing there five years. In the eastern end of the Outlet the lands were valuable, and some homesteaders found it more profitable to prove up and convey title, than to sell a relinquishment. Even though homesteaders desired to remain on the land, they sometimes considered it profitable to pay \$2.50 an acre and commute a homestead entry to cash under the act of August 15, 1894, and then mortgage the land to secure funds to improve it, or to purchase livestock.

The Pawnee reservation may be considered as representative of conditions of settlement in the eastern end of the Outlet. The schedules recorded 820 allotments to the Pawnees.<sup>102</sup> The schedules were approved by the Department of the Interior on July 10, 1893, and the General Land Office was accordingly directed to cause patents to issue in the names of allottees. Findings of fact by the Court of Claims on December 6, 1920, disclosed that allotments made aggregated 111, 931.61 acres, leaving 171,088.37 acres of surplus lands, of which 755 acres were reserved for school and agency purposes. The balance, 170,333.37 acres, was disposed of by the United States, 142,826.99 acres patented to homesteaders under the Free Homesteads Act, and 6,729.80 acres were paid for at \$2.50 per acre by settlers.<sup>103</sup> About 21,000 acres were granted to the State of Oklahoma for school and other purposes.

#### "A STEP . . . ONE HUNDRED FEET IN WIDTH"

Consideration should be given to the leading land decisions

<sup>101</sup> The homestead papers of J. H. Swope are in NA, GLO, Perry, P. C. 427.

<sup>102</sup> Smith to the President, Nov. 25, 1893, *H. Ex. Docs.*, 53 Cong., 2 sess., xlii (3209), p. xx. The schedules are in Bureau of Indian Affairs, *Schedules of Allotments*, vol. 11, pp. 90-100.

<sup>103</sup> *Pawnee Indians v. United States*, 58 Ct. Cls. 1 A. A. Jones, Privat. Asst. Sec. of Int., to Atty. Gen., May 18, 1914, Ct. Cls. *Printed Records*, vol. 262, no. 17324, pp. 23-24.



that resulted from the opening of the Outlet to settlement. Just after the opening Swineford was often asked about the status of settlers who made the run from the south side of the Chillico school reservation. It was estimated that not less than 5,000 persons made the run from that location. Swineford on October 3, 1893, wrote to Lamoreux that nearly all the claims taken by persons who made the run from that location were being, or would be, contested unless the fact that the run was authorized was positively announced.<sup>104</sup> A note was made on the envelope of the letter to the effect that status would be determined when actual cases arose. Secretary Smith in 1895 held that one was not disqualified as a settler because he made the run from the Chillico school reservation.

The question of whether persons who made the run from the east side of Outlet lands were disqualified entrymen was an important one in the history of the land opening. It has been explained that on August 30, 1893, Acting Secretary John M. Reynolds informed Watson J. Mendenhall by telegram that settlers would not "be permitted to enter the Strip from any Indian Reservation." in a contest with Byron E. Cagle over a quarter section of land on the southwest side of present Ceres, the controlling question was whether Cagle was disqualified because he made the race from a point within a hundred feet from the west line of the Otoe and Missouri reservation.

On February 5, 1895, Commissioner Lamoreux in an able decision held that in reference to the 100-foot strip, the "Cherokee Outlet" and "the entire country to be opened" defined identical territory.<sup>107</sup> Lamoreux noted that the telegram from Acting Secretary Reynolds to Mendenhall concerned Indian lands, and was intended to protect them from becoming a rendezvous for settlers desiring to enter the territory from the east. He said settlers could assemble on the 100-foot strip "around and immediately within the country to be opened to settlement" bordering on these reservations. He noted the congressional provision that the "rules and regulations" should be incorporated in the proclamation of the President, which should be issued "at least twenty days" prior to the land opening. He would not presume that Reynolds "in a telegram to a private individual" would attempt to abrogate a plain provision of the proclamation. Lamoreux said:

The purposes for which this strip was set apart were expressed

<sup>104</sup> NA, OLO, A. 102904-1893; *Welch v. Butler*, 21 L. D. 360 (1895). Persons who ran from the 100-foot strip entered the Outlet prior to the hour of opening. Were they "legal sooners"? See *Oklahoma Daily Times Journal*, Aug. 6, 1893.

<sup>107</sup> Lamoreux to register and receiver, Perry land office, NA, OLO, "H" Letter Book, vol. 390, pp. 308-326; *Cagle v. Mendenhall*, 20 L. D. 446 (1895).



in the order, i. e., "to allow intending settlers to enter the same before the hour of noon, Sept. 15, 1893." The object in opening this strip was obviously to protect people owning lands bounding on this country from trespass, and at the same time provide all homeseekers with a common starting place. It would be absurd to provide a starting place sixty or seventy miles from the nearest lands opened to settlement. To reach the land opened to settlement immediately west of the Tonkawa Indian Reservation, a settler starting from 96° west longitude and travelling in a due west course would have to pass over private property a distance almost twice as great as the widest part of the land opened to settlement. Locating this strip east and upon the Osage Reservation, as would be done if the construction be given the proclamation, that the strip should extend around the entire country ceded to the United States by the Cherokees, would not only render the strip of no practical use, but would be a violation of the treaty obligations with these Indians, as it would set apart a portion of their territory for temporary public use, without their assent, and subject their lands to trespass by those who ran from said strip to the lands opened to settlement.

Secretary Smith observed that just prior to the land opening instructions were issued to proper authorities to remove all persons from the 100-foot strip on the eastern boundary of the lands to be opened. He was satisfied that the action of the Department of the Interior in forbidding persons from making the run from the eastern boundary was not inconsistent with the act of March 3, 1893; and it being generally known that such instructions had been issued, settlers like Mendenhall who acted in obedience thereto should not be defeated in their rights by others who, as a matter of fact, obtained an advantage over them by making the run from adjacent Indian reservations. Although Cagle's motion for review was denied, he did not accept the ruling of Secretary Smith, but, it appears, continued to reside upon the land, and in the local courts and otherwise, attempted to continue the assertion of his claim thereto. Mendenhall also resided upon the land, was in possession of the greater portion thereof, and resisted the claim of Cagle. Whatever was done by either Cagle or Mendenhall was done with full knowledge of the continued assertion of the claim of the other.

On December 23, 1896, Secretary David R. Francis in the case of *Brady et al. v. Williams* overruled the decision in the Cagle case for the following reasons:<sup>104</sup> (1) There was no record in the Department of the Interior or any official notice forbidding persons from starting from the east side. (2) The 100-foot strip was created on the east side, as upon all others, by the proclamation of August 19, 1893. (3) The Secretary of the Interior could not by communications abrogate or modify the proclamation. (4) The fact that a person entered from an Indian reservation would not prevent him from successfully acquiring a homestead claim to lands opened to settlement.

Counsel for Cagle on January 10, 1897, filed in the Office

<sup>104</sup> 23 L. D. 533; on review, 25 L. D. 55 (1897).

of the Secretary of the Interior a petition requesting the correction of an error made by Secretary Smith. Secretary Cornelius N. Bliss on February 9, 1898, observed that Cagle had lawfully participated in the race for homestead claims on the day of the opening, and directed that the entry of Mendenhall be cancelled, and that Cagle be permitted to make homestead entry of the land in dispute.<sup>107</sup>

There were quite a number of cases involving the identical question raised in the Cagle case and the Brady case, and the cases had been disposed of according to the decision in the latter case. Bliss said that of those who made the run from the "Otoe and Missouri" reservation and effected a prior settlement, Cagle was the only one who had not been awarded the benefits thereof where the claim was otherwise free from objection. Mendenhall's homestead entry was canceled on April 14. On that day Cagle made entry for the land and received a patent for it on October 1, 1903.

Edward C. Forney was within the Ponca reservation before the hour of noon on September 16, 1893, and made the race from said reservation into the Cherokee Outlet. He settled upon and made homestead entry upon a quarter section of land near the present site of Autwine. Robert L. Winebrenner filed a contest against Forney charging him with prior settlement and sooncrism. All questions were waived except the one of disqualification of Forney. The Supreme Court of the Territory of Oklahoma in 1902 gave a direct answer to the question in order that parties in the suit, and other persons interested in similar cases, might know their respective rights without delay.<sup>110</sup> Counsel for Winebrenner contended that by the provisions of Section 14 of the act of March 2, 1889, all persons were prohibited from entering upon and occupying any of the lands of the Outlet west of the ninety-sixth degree of longitude, no matter whether the lands were claimed by Cherokees, Poncas, or other Indians. Counsel insisted that it was intended by the proclamation of August 19, 1893, to set apart a strip 100 feet wide around all of the country west of the ninety-sixth degree of longitude ceded to the United States by the Cherokees. This construction would place the line from which the run could be made from the east, all the way from twelve to fifty miles east of the land actually opened to settlement. In sustaining the qualification of Forney, the court said:

We cannot agree with this view of the law, because it will be presumed that the President did that which he had a lawful right to do; and it is questionable if he had the right to open up, even temporarily for the use of those who wished to make the run, a strip

<sup>107</sup> Cagle v. Mendenhall, 26, L. D. 177; Mendenhall v. Cagle, 9 Okla. 568 (1900); 12 Okla. 4 (1902); *GLO, Okla. Tract Book*, vol. 42, p. 44.

<sup>110</sup> Winebrenner v. Forney, 89 Pac. 879 (1902). See also Sprow et al. v. Miller, 25 L. D. 372 (1897).

of land 100 feet wide off of the east side of the Osage Indian reservation, and deprive the Indians and their lessee of the occupancy thereof, even for the 29 days intervening between the proclamation and the date of opening, while he did have the undoubted right to open up a strip 100 feet wide immediately within the outer lines of the land actually opened up to settlement. And this is what we think he did. These are the lands which he had in mind when he wrote the proclamation. He was not then trying to keep people out of the lands which the government had not even treated for, but out of the lands which he was proclaiming should on a certain day be opened to settlement.

In reference to the location of the strip 100 feet wide, the court said:

If this strip on the east was from 12 to 50 miles east of the lands to be opened to settlement, why provide that such occupancy should not be regarded as trespass, and that no settlement rights should be gained thereby? In fact, why do the absurd thing of granting persons the right to start into a race for a home 50 miles away, on the east of the land to be opened, when such person could make the race from either the north, south, or west, and start from the outer line of the land to be opened? The President must have known that no man would run from the east if he had to start from the east line of the Osage Indian reservation, and we assume that the President did not intend to give persons the right to do that which no sane person would do. The 100-foot strip was a strip of land 100 feet wide around the land actually opened up to settlement. . . . These lands to be opened joined right up against lands owned and occupied by individuals on every side except the east, and it was necessary to give the people a place all along the line from which they could have an equal start in the race; hence the 100-foot strip. If the 100-foot strip had not been set apart, those who intended to make the race would have been compelled to start from the highways on the section lines which led into the country, and these were only four rods wide, and are a mile apart, or they would have been compelled to pay license to make the race from the lands adjoining the lands to be opened, for which privilege in many cases a large sum of money would have been asked, thus giving a decided advantage to the rich; and the same thing might have been true of the Indian reservations. The 100-foot strip gave all an equal show.

The Supreme Court of the United States in sustaining this decision, referred to the "seeming contradiction" between the two clauses in the proclamation defining the location of the 100-foot strip, and observed that the first clause was used in a special description of the strip, while the second clause was found in that portion of the proclamation which defined the purposes for which the strip was to be used. The court held that the strip was one which ran around and immediately within the outer boundaries of the entire body of lands opened to settlement.

One did not become a disqualified entryman because he

<sup>111</sup> *Winebrenner v. Fornay*, 189 U. S. 148 (1903). Two of the nine justices, Edward D. White and Rufus W. Peckham, dissented. The *Winebrenner* decision was affirmed in *McCalla v. Acker*, 200 U. S. 813 (1906).

made the race from the Osage reservation, or from the Chillico Indian school reservation.

On the forenoon of September 16, 1893, Wesley Collins crossed the Cimarron River to the north bank where he remained until the hour of the opening. He was about fifteen feet from the bank of the river and about 150 feet north of a crowd who lined up in the bed of the river at the edge of the water. He assumed that the 100-foot strip would be measured from the north bank of the river. On October 5 he made entry for certain lands southeast of present Yale. William H. Fritch contested the entry.

The local land officers held that the 100-foot strip should be measured from the center of the stream, and therefore found that Collins, at the time of the opening, was within the prohibited territory. Secretary Ethan A. Hitchcock, in concurring in the view taken by Collins, said:

The one hundred-foot strip was provided for in order that those persons who came to the territory prior to the time of opening intending to settle therein, might have a place within which to camp while waiting, where they would be secure from interference from those who owned the lands immediately adjoining the territory to be opened. It was certainly not intended that the bed of a flowing river should be used for such a purpose.

South of Perry about three minutes before noon on September 16, 1893, someone fired a shot, and the line broke. Captain John B. Johnson saw the impossibility of checking the people, and he immediately gave the signal to go. North of Alva, a similar shot started the race about four minutes before noon. West of the Chillico reservation there was a "false break" about ten minutes before noon. Sergeant William R. Williard shot and killed John B. (James) Hill of New Jersey, in a futile effort to hold the crowd at the line.

Just before noon several thousand persons were assembled on the southern border of the Outlet, north of Hennessey, at the place where the railroad entered the Outlet. Otho E. Cope was on the 100-foot strip, about one eighth of a mile west of the railroad track. Landa H. Braden was still farther west, and across Buffalo Creek. Along the creek there was quite a growth of timber, which prevented those west of the creek from seeing those east of it. In front of the settlers was a line of sentries, posted by the military authorities, to give the signal for starting by firing their pieces. The settlers formed practically a solid

<sup>112</sup> See "Public Lands," in 22 Cyc. 816, and cases there cited.

<sup>113</sup> *Fritch v. Collins*, NA, GLO, "E" Letter Book, vol. 463, pp. 329-335; 29 L. D. 167 (1899). Collins testified that he remained on the bank of the river about 15 minutes after the crowd had passed, as he did not think it was twelve o'clock, judging by his compass.

line, and Cope was in or near the front of the line. The railroad train, which was a little distance south of the line, after having been loaded, was moved up to within a few feet of the line in anticipation of the race. In moving up the whistle of the locomotive was sounded, and after a few exhausts of steam, the great majority of settlers near by rushed madly into the Outlet. The rush occurred about thirteen or fifteen minutes before twelve o'clock. It was not premeditated. Settlers evidently thought the train was moving into the Outlet, and took that as a signal for entering the lands. The soldiers succeeded in stopping some settlers who were occupying vehicles. Cope, like the majority of horseback riders, continued on in the rush. He rode nearly eighteen miles and at about 12:43 p.m. he was on, and laid claim, to a quarter section of land less than a mile from Enid.

Braden and those with him could not see the movement of the train because of the timber. Braden entered the race at noon, and at 12:55 p.m. arrived at the quarter section claimed by Cope, and laid claim to it. Braden made homestead entry for the land, and Cope contested the entry, alleging priority of settlement. Each of them remained on the land and followed up his settlement with due and commendable diligence. Each cultivated and fenced large portions of the land and each had other valuable and permanent improvements. There could be no question, so far as the matter of establishing residence in a reasonable time and cultivation and improvements were concerned, and the good faith of each party was unquestioned.

After a hearing at the Enid land office the register sustained Braden, but the receiver recommended that his homestead entry be canceled. Both parties appealed. Assistant Commissioner Emory F. Best in holding that Cope had the superior right of entry, said on March 6, 1896:<sup>114</sup>

There is a great deal of testimony tending to show that the plaintiff started in the race prior to the hour of twelve o'clock, noon. Several thousand persons, the number is estimated by some witnesses as high as twenty thousand, were located on the line near Hennessey on the day of the race and it would appear that some, at least, of those persons, perhaps five or six thousand of them, left the line between twelve and fifteen minutes before 12 o'clock, noon, and went into the Outlet, while others remained on the line until the proper time for starting.

The plaintiff and several witnesses for him, testify that a soldier was stationed just within the borders of the Outlet, with a flag, and that they were informed by another soldier who rode down the line that they were to start when the flag was lowered, and that they did not start until the soldier dipped the flag, and ran north as the crowd went.

<sup>114</sup> Best to register and receiver, Enid land office, March 6, 1896, NA, GLO, "H" Letter Book, vol. 439, pp. 484-487; vol. 448, pp. 33-35 (1896); Cope v. Braden, 25 L. D. 341 (1897); 11 O.C.R. 281 (1901); Barter v. Crilly, 12 L. D. 684 (1897).

Best noted that Cope was on the land first and said the burden of proof was on Braden to show by a fair preponderance of evidence that Cope started in the race before the signal was given by the soldier above mentioned. In a review of the decision on May 18 Best held that although Cope "entered the territory a few minutes prior to 12 o'clock noon," such entrance was lawful. Best said: "He entered the territory with thousands at a signal given by one in authority to designate the time when 12 o'clock noon should arrive."

Secretary Thomas Ryan said it was idle to attempt to argue that "the restless mass" who began the race when the train moved, did not gain an advantage over those who remained until the lawful time to start. If there had been no contest, Ryan was inclined to think that Cope would be a qualified entryman. But in a contest, Ryan said the burden of proof was upon Cope to show that he was first upon the tract in a strictly orderly way. Because Braden had lawfully entered the Outlet while Cope had entered it prematurely, Ryan sustained the homestead entry. Braden subsequently received a patent for the land.

Notice should be taken of cases involving more of the Outlet than the 100-foot strip. For at least a year prior to the opening of the Outlet to settlement William E. Morris lived in the Creek Nation under a "lease" from said nation. The only water he could get for his family and stock was a half mile north of the south line of the Outlet, and throughout the year he went into the Outlet every other day to procure water. His trips into the Outlet were confined to this purpose. On September 13, 1893, he appeared at a booth and offered a declaration as to his qualifications to enter land, but was denied a certificate by the booth clerk because of his entrance into the Outlet for water. Nevertheless Morris applied to make homestead entry for certain lands north of present Mannford.

Assistant Commissioner Edward A. Bowers followed the doctrine in *Standley v. Jones* which held that presence within the territory during the prohibited period, in violation of the statute and proclamation of the President, disqualified a claimant for lands in Oklahoma.<sup>113</sup> Secretary Smith reversed the decision of the assistant commissioner. In sustaining the application of Morris, he held that entrance into the Outlet during the prohibited period for the sole purpose of securing water for domestic use did not operate to disqualify him as a settler.

<sup>113</sup> Bowers to register and receiver, Perry land office, March 30, 1895, NA, OLC, Okla. Letter Book, vol. 42, pp. 495-497; *Standley v. Jones*, 18 L. D. 485 (1894); *W. E. Morris*, 22 L. D. 613 (1896). One who entered the Outlet during the prohibited period for the alleged purpose of collecting money owed him, was thereby disqualified to make entry for lands; *Ann. Rept. Gen. Land Office, 1894*, p. 124.

On August 19, 1893, Oliver J. Devore was in the Outlet occupying a tract of land he had leased from a Tonkawa Indian. He was there by the written consent of the Indian agent. About August 22 he passed "over the road usually traveled within about three miles of the land in dispute, went to Arkansas City, learned of the opening, and remained until afternoon of September 16."<sup>114</sup> Four days later he settled upon a quarter section of land eight miles east of Tonkawa. John A. Riehl on September 23 made settlement upon the land. In a contest between them, Secretary C. N. Bliss decided that Devore's presence in the Outlet during the inhibited period secured him no advantage over others and sustained his claim to the land.

The mere riding through the Outlet on a railroad train during the prohibited period was not considered by the Interior Department to be such an entry upon the lands as would disqualify the person so passing through. The situation was different in the case of Granvil C. Phillips who was charged with planning speculation and sale in the interest of the Medford Town Company. Assistant Commissioner E. F. Best said:

I find that Phillips crossed the Cherokee Outlet several times between September 11, and 18, 1893, on a railroad train. He passed in sight of the land, and saw it from the train. He carried a small sectional map of the Outlet, and from it, he learned the description of the land, and by reason of the examination which he made of it while passing within between one hundred and two hundred yards of the land, selected it.<sup>115</sup>

On the afternoon of September 16 Phillips filed a soldier's homestead declaratory statement for a quarter section he had selected at Medford, and subsequently made homestead entry for it. William S. Robertson contested the entry, and Secretary Bliss held that since Phillips had taken an advantage over other settlers, the entry should be canceled.

There were several townsite cases in the settlement of Perry, Enid, and other towns in the Outlet. The testimony, exhibits, and decisions of the cases are preserved in the General Land Office records in the National Archives.<sup>116</sup>

<sup>114</sup> Devore v. Riehl, NA, GLO, "H" Letter Book, vol. 438, pp. 1-6 (1896); 25 L. D. 580 (1897).

<sup>115</sup> Robertson v. Phillips, NA, GLO, "H" Letter Book, vol. 459, pp. 239-237 (1899); 27 L. D. 74 (1898).

<sup>116</sup> A profitable study could be made on townsites in the Cherokee Outlet. An example of materials available is in the *Perry Daily Journal*, Sept. 12, 1898; Sept. 12, 1899. In the Library of Oklahoma State University is a master's thesis by Ethel Katherine Knox, *The Beginnings of Perry, Oklahoma* (1908). See also *City of Perry*, 22 L. D. 367 (1896).

In 1894 the House Committee on the Public Lands said that while the registration booth-system "was some protection to honest settlers, it did not prevent fraud and was not satisfactory to the settlers, who were compelled to remain in line for days in dust and wind while the

## CONCLUSION

In Oklahoma Territory there were five land runs. The Cherokee Outlet was the largest tract ever opened in a land run, and it involved the most people. Archival sources reflect the administrative procedure in the opening of the Outlet. While thousands of prospective settlers waited impatiently on the borders of the promised land, officers of the federal government worked vigorously near the verge of deadlines. The agreement with the Cherokees for the cession of the lands was concluded on December 19, 1891, but it was not ratified by Congress until the last day of its validity. A rider attached to the Indian Appropriation Bill and ardently advocated by Senator Henry L. Dawes and Representative Samuel W. Peel, saved the agreement and prevented a possible invasion of settlers into the Outlet.

The agreement provided that certain Cherokees be allotted lands in the Outlet, and a total of 62 allotments were made. Some allottees tried to select lands adjoining prospective county seats, and the Secretary of the Interior to diminish this capitalization, belatedly placed county seats at the present sites of Newkirk, Perry, Pond Creek, and Enid. Robert L. Owen exercised a commanding influence in making the Cherokee allotments. They were completed and approved under the shadow of a deadline.

No prior land opening in Oklahoma Territory was marked so much by the effort of the federal government to prevent fraud. On August 1, 1893, Inspector Alfred P. Swineford reported to the General Land Office his estimate that 100,000 persons would apply for registration, and that the booths should be open ten days for that purpose. The time was reduced to 5½ days. There were 115,000 registration certificates issued, and registration was concluded in the haste and confusion of meeting a deadline.

Deception and trickery, including soonerism, occurred in the opening of the Cherokee Outlet, but was no more pronounced than in other land openings. It is the usual story of human greed to secure town lots and good farms. The warmth of human kindness was illustrated in many instances, but the chief desire was to secure valuable property. In registration at the booths and in making homestead entry at the land offices, many persons yielded to the temptation of individual advantage. "Anything to keep out of that line," was the way James Harry Swope defined the temptation.

'sooner,' having registered, secreted themselves on the inside and as usual at such openings got all the choice lands and lots"; "Opening of Indian Reservations to Actual and Bona Fide Homestead Settlers," *H. Reports*, 53 Cong. 3 sess., 1(3345), no. 1478, p. 3.



President Grover Cleveland said that the opening of the Cherokee Outlet "furnished an exhibition though perhaps in a modified degree, of the mad scramble, the violence, and the fraudulent occupation which have accompanied previous openings of public land." In his annual message on December 4, 1893, he noted the difficulty of thwarting the schemes of speculators, and recommended a change in the laws concerning land openings.

The designation as an assembly ground of a strip 100 feet wide "around and immediately within the outer boundaries of the entire tract" to be opened was a commendable provision in the proclamation of the President. A belated attempt to close the strip along the west side of the Ponca and Otoe reservations had the endorsement of private interests. The Interior Department indicated that such entrance in the race would be illegal, but the courts sustained the right of settlers to assemble on the eastern border of the lands to be opened to settlement.

At the land opening in 1893 the law provided that settlers within seven years should pay for their lands at the rate of \$1.00 to \$2.50 per acre, depending on location. Six years and eight months after the land opening, Congress passed the Free Homesteads Act which enabled settlers who had paid nothing, or only partially, for their lands, to secure a patent for same on payment of the usual and customary fees. On this nominal charge much of the public domain had been opened, including the fertile Oklahoma district which bordered the Outlet on the south.

Four land offices were established in the Outlet. As business declined, they were gradually consolidated with other offices, and in 1915 the last office was removed from the Outlet. In general, it may be said that the opening of the Outlet illustrates democracy in action in American history.