the chronicles of OKLAHOMA

VOLUME LXXXVI
NUMBER ONE
SPRING, 2008

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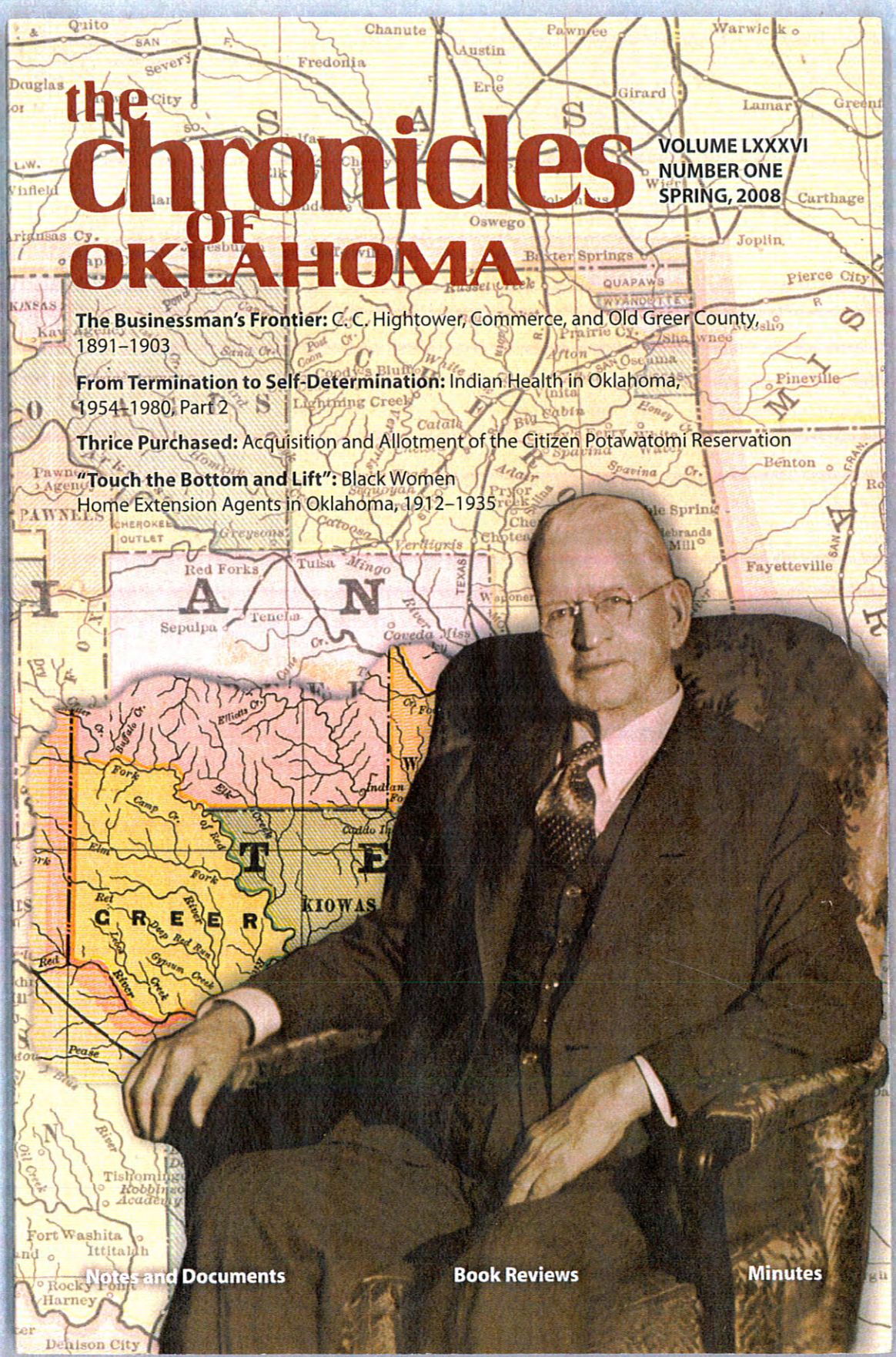

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The Chronicles of Oklahoma (ISSN 0009–6024) is published by the Oklahoma Historical Society, 2401 N. Laird Avenue, Oklahoma City, OK 73105-7914. Periodicals postage paid at Oklahoma City, OK.

POSTMASTER: Send address changes to *The Chronicles of Oklahoma*, 2401 N. Laird Avenue, Oklahoma City, OK 73105-7914.

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Thrice Purchased

Acquisition and Allotment of the Citizen Potawatomi Reservation

*By Lisa Kraft**

The Potawatomi were among the first Indian tribes to enter into treaties with the United States (beginning in 1789), and they were also one of the last (1867). Over several decades in the nineteenth century they ceded more than ten million

acres throughout Wisconsin, Illinois, Indiana, Michigan, Ohio, Iowa, and Kansas. After a treaty in June 1846 they were forced to relocate from Iowa to Kansas.[1] In the process of deciding to move again, this time to the Indian Territory, they endured the making of more treaties, became citizens of the United States, and witnessed the allotment of their lands to individual tribe members. The Citizen Potawatomis' experience also became entangled with the relocation of the Absentee Shawnee tribe. In order to understand the driving forces behind the Potawatomi removal to Indian Territory in the early 1870s, it is first necessary to review the circumstances that forced them to seek homes outside Kansas. It is also important to recognize the evolution of two separate Potawatomi bands.

In the 1860s, because of land allotment, a distinct class of Potawatomi emerged. Within a few years they would become recognized as the Citizen Potawatomi. Mounting pressure from non-Indian settlers, traders, missionaries, and railroad conglomerates in 1854 prompted Congress to enact the Kansas-Nebraska Act to create the Territory of Kansas. In mid-November 1861 the United States negotiated another treaty with the Potawatomi people, and by its terms subsequent allotment proceedings diminished their Kansas River reservation. Approximately three-fourths of it was thereafter opened for allotments to individual tribe members, and a smaller portion, about one-fourth, was set aside for those who wished to continue to hold land in common. Those Potawatomi who chose communal ownership were commonly referred to as the "prairie" Potawatomi. A preemptive clause was added to the 1861 pact to protect the interests of those who opposed taking individual land allotments and desired to live together. Exclusively penned for the Prairie Potawatomi, Article Four set aside eleven square miles for the small community.[2]

For those who wished to participate in allotment, and thereby own individual farms and support their families by farming, the legislation and treaty provided them that opportunity. All adult Potawatomi tribe members were allowed to select individual parcels of land anywhere on the Kansas River reserve, except in the tract held communally by the Prairie Potawatomi. The designated land allotments would be exempt from levy, taxation, and sale and would be considered "alienable in force."[3] In theory, this meant that the federal government would protect the individual Indian and his land from non-Indian land depredation. However, to obtain a patent and actually own the land, the individual Potawatomi had to accept United States citizenship.[4] Those who fulfilled the naturalization requirement were soon labeled "citizen" Potawatomi by Indian and

non-Indian alike.[5] Taking individual land allotments in no way diminished an individual tribe member's stake in the Kansas River reservation surplus land. This surplus land would later be sold to pay for the new Citizen Potawatomi reserve in Indian Territory.

As history has proven, federal restrictive measures, while crafted in Washington as legislative acts or as treaties ratified in Congress, afforded little or no protection for the Potawatomi on their Kansas lands. Local authorities and non-Indian citizens saw the new "citizen" Potawatomi as a unique tax base. Not long after they took citizenship, tribe members incurred (illegally imposed) land taxes and tax debt and were intimidated or forced to sell their lands to ward off creditors. The federal government offered no legal recourse or compensation to the naturalized Potawatomi, who thought that they were being protected by the federal government.[6] Conveniently, Article Three of the treaty of 1861 gave the new Potawatomi citizens a way out of their dilemma.

Citizen Potawatomi who were adults could exercise the option of having the president declare them competent and grant them patents in "fee simple." This allowed them to immediately sell their allotment lands, if they so desired.[7] A patent issued in "fee simple" released the government restrictions on patenting, taxing, leasing, or selling the land. However, a Citizen Potawatomi who exercised this could quickly become landless and without any way to generate income. Local creditors could consume any profit made from the sale of the land, leaving the family destitute.

In 1866 the federal and territorial governments, perhaps impatient for complete Indian removal from Kansas, lifted the beneficial provisions of the treaty of 1861. By the terms of a new treaty made on March 29, 1866, *any* member of the Potawatomi, regardless of age, could select land, receive a patent in "fee simple," and dispose of the allotted property.[8] In the reflective words of a Citizen Potawatomi spokesperson a decade later, "We made the treaty because the Government desired us to do so, not that we understood what being a citizen meant."[9] Callous Kansas government officials (Kansas achieved statehood in February 1861) actually took steps to make matters worse. As the Civil War raged, the state's governors encouraged the militia to antagonize the tribes and incite dissension among white and Indian neighbors. The object of this activity was to promote the removal of all Indians from Kansas to the Indian Territory.

The harassment was successful. As a result, Indians ceded 1.5 million acres of Indian trust lands in Kansas to settlers and specu-

lators. Many of the Citizen Potawatomi who had taken lands in severalty had attempted to become prosperous farmers and businessmen but had quickly succumbed to financial pressures. To add to their misery, throughout the 1860s severe droughts caused creeks to dry up and crops to fail. Social and economic barriers, drought conditions, and procedural frustrations with allotments perhaps were all instrumental in prompting the Citizen Potawatomi to seek a new home in the Indian Territory.[10] Fortunately for the new citizens, the writers of the treaty of 1861 had negotiated for a remedial provision. Article Eight allowed any band or bands of Potawatomi desiring to remove from their Kansas home to sell their allotment lands and their part of the reservation surplus land to pay for a new home in the Indian Territory. This provision led to another new treaty in 1867 and to the formal recognition of the Citizen Potawatomi tribe as separate from the Prairie Potawatomi.[11]

On February 27, 1867, attempting to escape their hardships, the Citizen Potawatomi signed their final treaty with the United States and relocated to Indian Territory.[12] The document's Article Three afforded them "exclusive use and occupancy" rights to a 575,870-acre tract and all of its natural resources. The money for purchasing a new reservation was to come directly from the sale of individual Citizen Potawatomi land allotments in Kansas as well as from the sale of the surplus reserve land. Article Three also called for a new governing body of the "naturalized" Potawatomi. More importantly, Article Four formally recognized a "Business Committee."[13] On July 25, 1868, the United States Senate ratified the pact, which contained the significant phrase "whereas the [Citizen Potawatomi] tribe has the means of purchasing such reservation from the funds to arise from the sale of lands under the provisions of this treaty."[14] The Business Committee soon successfully negotiated a deal with the Atchison, Topeka and Santa Fe Railway and sold the Kansas River reservation surplus land, thereby replenishing the tribal trust account held by the United States. This transaction enabled the Citizen Potawatomi to purchase outright their new reserve in Indian Territory.[15]

The treaty of 1867 also contained other conditions that later proved important. Article One permitted the Citizen Potawatomi to select a home among the Cherokees, if an agreement could be reached at an acceptable price. Article Four called for a register to be made by the Business Committee within two years; it was to list both the tribe members desiring to relocate to Indian Territory and also to enumerate those who were "citizens" but desired to remain

in Kansas. More significantly, Article Six encouraged members who had not already done so to take United States citizenship in order to secure their place on the new Indian Territory reserve.[16]

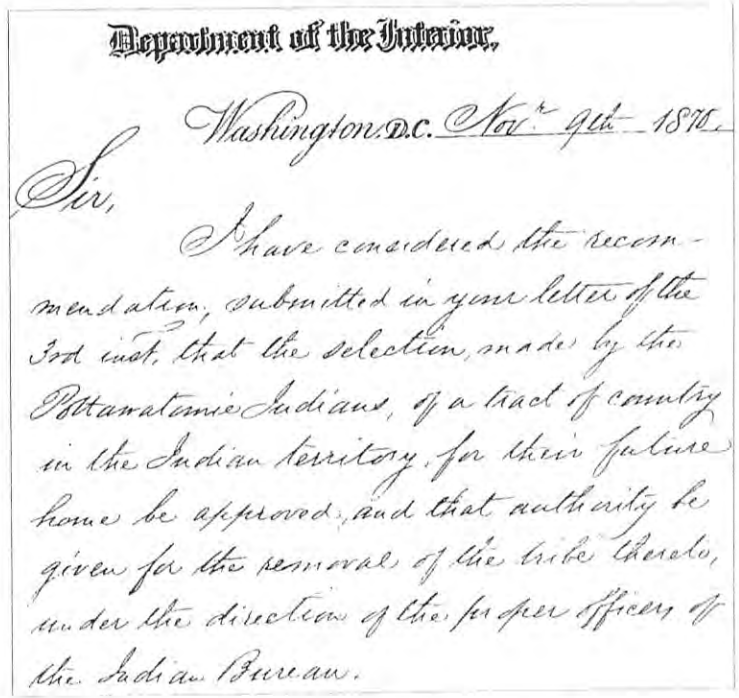
In December 1869 a Citizen Potawatomi delegation traveled from Kansas into Indian Territory to select their people's new home. Rather than taking lands within the Cherokee reservation, as originally intended by the Department of the Interior, the representatives instead designated land that previously had belonged to the Creek and Seminole. Bounded on the north by the North Fork of the Canadian River and on the south by the Canadian River, the region lay roughly in the center of Indian Territory.[17] The Little River, running east and west, bisected the reserve, creating two parts generally equal in size. The language of the treaty of 1867 stated that once the Citizen Potawatomi had made their selection of a thirty-mile-square tract and it was approved, title of land ownership would be transferred to the Citizen Potawatomi tribe for its "exclusive use and occupancy."[18] The new Citizen Potawatomi reservation was reported to Secretary of the Interior Columbus Delano on November 3, 1870, and was officially approved a week later, on November 9. A few Shawnee Indians may have already been living on the new Citizen Potawatomi reserve.[19]

Essentially, the 1867 treaty had created both a safe haven and a unique opportunity for Citizen Potawatomi tribe members. The process of relocation to Indian Territory, as gauged by the eventual scheduling of allotments to the Citizen Potawatomi, was gradual. As Citizen Potawatomi individuals lost their land holdings in Kansas and fell prey to circumstances, they were still able to relocate to Indian Territory to live communally among their people. Those who were successful in Kansas had the option of remaining there.

At this juncture, as far as the president of the United States, the secretary of the interior, the commissioner of Indian affairs, and Indian agents were concerned, Citizen Potawatomi tribe members were now individual United States citizens. They had accepted citizenship in the treaty of 1861 and had reaffirmed it in the treaty of 1867. But shortly after they selected their new reserve, an unforgiving Congress enacted the Indian Appropriations Act of 1871. The effect on Indian tribes was devastating. The new legislation bolstered non-Indian settlement on Indian lands and terminated the treaty process between American Indian tribes and the federal government. In essence, tribes lost the right to manage reservation lands and, in some cases, the right to control their own affairs. The 1871

measure also created uncertainty over Citizen Potawatomis' rights both as citizens and as Indians.

In the eyes of the federal government a Citizen Potawatomi had ceased being an "Indian" when he or she signed citizenship papers. In 1871 Indian Affairs Commissioner Ely S. Parker wrote to Interior Secretary Delano that under Article Six of the 1867 treaty as many as 1,518 Potawatomi had received naturalization papers and had applied for a land patent. Of that number, 1,268 Potawatomi had become citizens, had been issued patents in "fee simple" for their Kansas lands, and had been paid their individual portion of



Department of the Interior,

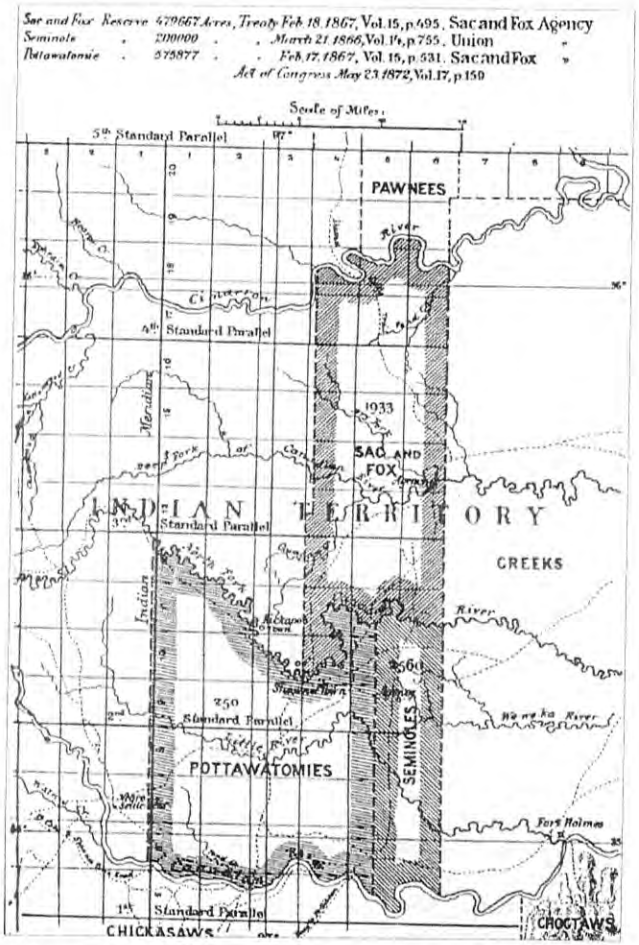
Washington D.C. Nov. 9th 1870.

Sir,

I have considered the recommendation, submitted in your letter of the 3rd inst. that the selection, made by the Pottawatomie Indians, of a tract of country in the Indian territory, for their future home be approved, and that authority be given for the removal of the tribe thereto, under the direction of the proper officers of the Indian Bureau.

Letter of Interior Secretary Columbus Delano dated November 9, 1870, in which he approves the Potawatomi land selection (Courtesy Citizen Potawatomi Nation Archives).

tribal funds from the sale of the surplus lands in the Kansas River reserve. Parker also informed Delano that steps were being taken to issue naturalization certificates and land patents to the remaining 250 individuals who still lived in Kansas and among the Prairie



Citizen Potawatomi Reservation created by the Act of 1867. Also shown are the Sac and Fox to the north and the Seminole to the east (Annual Report of the Commissioner of Indian Affairs for 1879).

Potawatomi. Parker's report also identified the total number of Citizen Potawatomi living in Kansas and Indian Territory to be 2,180.[20]

Both the citizenship process and the allotment process appeared to be proceeding successfully without incident, but for those who had not yet been naturalized, questions remained, especially under the 1871 legislation. Were they full "citizens," or "Indians," or "quasi-Indians"? While the process continued, could the people still negotiate as a tribal unit? How would they be treated in the future?

And what was to be done with the Absentee Shawnee, who were a small but increasingly vocal presence in the Indian Territory land promised to the Potawatomi? The existence of the Absentee Shawnee in that location was the culmination of several decades of migrations from various directions, finally bringing them to the central part of Indian Territory by virtue of a treaty made in Kansas in 1867 but never ratified by Congress. By 1871 approximately 640 of them lived on the Citizen Potawatomi reserve in Indian Territory.[21] Only after the Potawatomi selected land in Indian Territory was it discovered that an Absentee Shawnee settlement existed within their chosen region.

The two were not happy as neighbors. Observers emphasized the conflict between the two tribes, one noting that "a feeling of uneasiness and insecurity has existed among these people since the settlement of the Pottawatomies [*sic*] upon the lands. . . ."[22] Still other watchers noted that the Citizen Potawatomi and Absentee Shawnee had not "assimilated and do not agree well together."[23] During the 1870s the Absentee Shawnee repeatedly asked the commissioners of Indian affairs to allow them to continue living on the north side of the Little River and to confine the Citizen Potawatomi to the south side. Rather than removing the remnant Shawnees from the Citizen Potawatomi reservation and thereby honoring the terms of the Potawatomi treaty, the Department of the Interior forced the Citizen Potawatomi to share the land and, under the terms of the 1871 legislation, directly challenged their tribal authenticity.

To address the tensions between the tribes and to determine the legitimacy of the Citizen Potawatomi as a tribal organization, Interior Secretary Delano set out in early 1872 to examine the circumstances that had led to the Citizen Potawatomi treaty of 1867. After reviewing the treaties of 1861 and 1867, Delano wrote that it had been the intent of Congress to permit any member of the Potawatomi tribe to become a citizen of the United States. However, to the government's surprise, all of the members of the Potawatomi tribe, excluding the Prairie band, had elected to take citizenship.

The issue of import became whether or not the Citizen Potawatomi, in their changed condition as "citizens," could have a patent issued to the tribal entity for the new reservation. As outlined in a letter dated March 16, 1872, Secretary Delano understood that the technical impediments had caused the Citizen Potawatomi tribe to become, in his words, "extinct." However, in Delano's opinion, this had not been Congress's original intent.[24]

In order to recognize those Citizen Potawatomi who had become "quasi-citizens" by legislation in 1861 and 1867, Secretary Delano recommended to Speaker of the House of Representatives James G. Blaine that new legislation be passed to reconstitute the tribal entity. Delano went on to qualify his request by stating that "so long as they remain together as an organized body . . . they may be permitted to hold their lands in severalty or in common as they may elect."[25] Consequently, on May 23, 1872, Congress passed "An Act to Provide Homes for the Pottawatomie and Absentee Shawnee Indians in the Indian Territory." Of particular note, one of the law's provisions purposely repealed the rights of the Citizen Potawatomi as United States citizens and returned them to the status of Indians.[26]

Not only did the 1872 law restore the sovereignty of the Citizen Potawatomi Tribe, it allowed the secretary of the interior to issue allotment certificates to individuals of both tribes for land selections on the nine-hundred-square-mile reserve. Such tracts were to be exempt from levy, taxation, or sale and alienable in fee, or leased or otherwise disposed of only to the United States or to persons of Indian blood lawfully residing within Indian Territory. Allotments made under the measure's provisions were short, concise, and written in only two sections. Section One was written for Citizen Potawatomi tribe members and Section Two for Absentee Shawnee tribe members. Section One allowed for larger land allotments to the Citizen Potawatomi but required them to pay for their selections from tribal trust funds held for them by the United States. Section Two provided the Absentee Shawnee with land allotments at one-half the acreage allowed for the Citizen Potawatomi. However, the Absentee Shawnee were not required to pay for their allotments.[27] The act of 1872 clearly sought to compensate the Citizen Potawatomi; they were given a better offer with respect to quantity and location of land within the entire reservation.

However, by this method of reasoning federal lawmakers in effect disregarded the treaty of 1867. While accommodating the Absentee Shawnee, the government had now required the Citizen Potawatomi people pay for their reservation three times: the first

had been to purchase the reservation; the second, to purchase individual allotments; and the third, to pay the rent for another tribe. The Absentee Shawnee were not required by the government to compensate the Citizen Potawatomi for the allotments, for the use of natural resources, or for a communal portion of the reserve. Not unexpectedly, the situation quickly ignited tension between the Citizen Potawatomi, who stood to lose everything, and the Absentee Shawnee, who stood to gain much.

The intent of the law was partially carried out on November 12, 1875. At that time, 327 Absentee Shawnee were issued allotments. Approved ten days later on November 22, 1875, these allotments were found to be incomplete and subsequently were voided.[28] Although they were supposed to be accommodated by the act of 1872, the Absentee Shawnee would never be issued certificates for allotment lands under that legislation. Thus, in addition to the fact that the 1867 Absentee Shawnee treaty was never ratified by Congress, the 1872 law was never consummated with that tribe.

And thus also, by the 1872 law, Congress thought it had settled the question of the legitimacy of the Citizen Potawatomi people and tribe. They were now judged to be Indians, and Congress had also reaffirmed the tribal entity. On November 9, 1875, Special Agent J. J. Knox issued forty-three allotments to Citizen Potawatomi individuals. Because many of them had not resided on their allotments for the required three-year period, however, certificates could not be issued. Knox listed the occupancy requirement as one reason for not issuing certificates and a shortage of cash payments as another. Within just a few weeks 131 allotments were made to Citizen Potawatomi tribe members. All were approved the same day, under the terms of the 1872 law. Additionally, 327 allotments had been issued to Absentee Shawnees.[29] As it happened, none of the allotments made in 1875 were ever certified. The surveys were so inaccurate that it was impossible to locate the tracts correctly. As a result, and in combination with other factors, such as incomplete legal descriptions, lack of boundary markers, allotment duplicity, and discrepancies in tribe membership and familial relationships, certificates were never issued to any tribe members. Without recourse, Citizen Potawatomi could not lay claim to their land for almost another decade.

The allotment process languished, and when it resurfaced in 1883 it involved an argument over subdividing the Potawatomi reservation. By April of that year the Bureau of Indian Affairs was again making an effort to induce the Absentee Shawnee to accept

allotments. Special Agent E. B. Townsend was placed in charge of the process. Some Absentee Shawnees continued to oppose taking lands in severalty, and most, if not all, simply opposed allowing the Citizen Potawatomi to create a reservation where Absentee Shawnee families had made homes. The Shawnees petitioned that no action be taken until a firm dividing line was established between them and the Citizen Potawatomi. The suggested boundary would essentially chop the reservation in half, with the Little River as a reference point.[30]

As 1883 passed into 1884, the Absentee Shawnees still stubbornly insisted on separation. In April 1883 Indian Commissioner Hiram Price voiced his department's frustration with the stalemate. Pushing Townsend to move forward, Price indicated that he knew of "no law that requires either tribe from having to take allotments within the confines of specific portions of the reserve." He went on to admonish the agent that "should you fail in your efforts to secure amicable arrangements . . . you will allow members of either tribe to make selections anywhere they desire."[31] This directive would never be carried out. Townsend reported a few days later that the Absentee Shawnee still refused to take allotments, owing to "superstitious" feelings that it would be unwise to do so. He also asserted that nonprogressive individual Indians were responsible for spreading that rumor.[32] In February 1884 Price confirmed to members of the Citizen Potawatomi Business Committee that the 327 allotments of eighty acres made in 1875 to Absentee Shawnees under the 1872 measure had still not been certified.[33]

In contrast, however, the Citizen Potawatomi paperwork of 1875 slowly began to clear bureaucratic hurdles in the Interior Department. On January 19, 1884, nine certificates were issued to Citizen Potawatomi individuals under the provisions of the 1872 act, at a cost of $131.60 each. By April 27, 1885, two more allotments had been made to Citizen Potawatomis, making a total of eleven.[34] Now the United States Congress stepped in to complicate the situation once more.

By the mid-1880s the federal government was melding concepts of citizenship and individual land ownership into a new policy of acculturating Indian peoples and assimilating them into white society. With acculturation a priority, Congress embraced the notion of giving each Indian family its own farm and attempting to end tribal sovereignty. The General Allotment Act (commonly known as the Dawes Act) of February 8, 1887, contained provisions that were intended to help Indians retain their allotment lands. Under the new

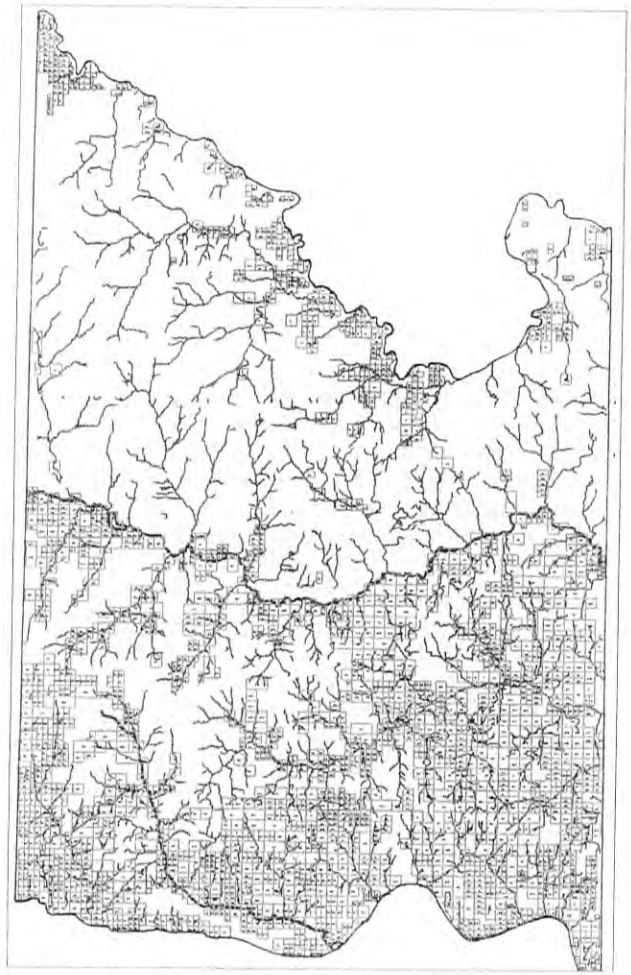
measure the federal government would be allowed to hold the patent to each individual allotment for a period of twenty-five years or until the individual Indian was deemed competent to handle his or her own affairs, all the while imposing restrictions. The Dawes Act also required that each Indian accept citizenship in the United States and follow the laws of the state or territory of residence.[35]

Before allotment could proceed further, the federal government decided to find out how many people of each tribe resided on the Citizen Potawatomi reserve. A census taken on May 17, 1887, indicated that 306 Citizen Potawatomis and 775 Absentee Shawnees lived within the boundaries. The scarcity of Citizen Potawatomi families may have come about because some tribe members thought they had to provide the funds to purchase the reservation land, rather than withdrawing it from the tribal trust funds held by the United States. On the other hand, perhaps there simply was not enough farm land for all. The surveyors identified only 120,000 acres of tillable land on the reserve; the remaining acres were timbered.[36] The land suitable for agriculture, mostly in the northern half of the reservation, had already been claimed by Absentee Shawnees. On May 24, 1887, President Grover Cleveland granted authority for making allotments of land in severalty to the tribes by signing the allotment legislation. Sac and Fox Agents Moses Neal and N. S. Porter would be responsible for the allotment task for their agency's charges as well as for the Citizen Potawatomi and Absentee Shawnee.[37]

Because the provisions of the 1887 act differed from those of previous measures, the disposition of the Citizen Potawatomi reserve became even more complicated. Whereas under the 1872 law all adults were eligible, under the Dawes Act only a head of a family was entitled to 160 acres. Married women twenty-one years of age and older, earlier entitled to allotments under the 1872 legislation, now were not entitled to allotments at all. Children and minors under eighteen, not orphans, were only entitled to forty acres. Indians were no longer required to pay for patents to these allotted tracts.

The new legislation was advantageous for the Absentee Shawnee. Acting Commissioner of Indian Affairs D. L. Hawkins recommended that because they had not been issued certificates under the 1872 act, allotments should now be made to them.[38] It was their good fortune that the new law would give them larger land holdings. The second provision of the 1872 act would have allowed an Absentee Shawnee man with a wife and four children to acquire a total of 160 acres.[39] In contrast, the 1887 Dawes Act provisions al-

lowed that same Absentee Shawnee man to take a personal allotment of 160 acres and receive 40 acres per child, for a total of 320 acres, or a half-section.[40]



Potawatomi allotments in 1872 and 1887. Note that most are south of the Little River (Courtesy CPN Office of Self-Governance).

The Citizen Potawatomi individual was not so fortunate. Under the 1872 act Potawatomi heads of a family, husband and wife, had each been entitled to 160 acres and would receive 80 acres per child. Thus a family of six would have acquired an aggregate equal to an entire section of land, 640 acres. However, under the terms of the 1887 Dawes Act one head of household could be issued 160 acres, and children could only receive 40 acres. Thus a man with a wife and four children would receive a total of 320 acres, a half-section, compared to the total of 640 acres under the 1872 law—a reduction of 50 percent—and an amount equal to that of a similar family of Absentee Shawnee. For the Citizen Potawatomi, then, the only benefit of the General Allotment Act of 1887 was that an individual no longer had to pay for the allotment.[41]

The Dawes Act did not please everyone. After complaints, within three months the Department of the Interior reconsidered the circumstances of the Citizen Potawatomi and Absentee Shawnee, and the regulations were modified. Each head of a family, tribe notwithstanding, could now receive a 160-acre allotment. To that extent, both tribes benefitted. On August 10, 1887, Acting Commissioner of Indian Affairs A. B. Upshaw set forth the new rules for scheduling allotments to the Citizen Potawatomi and Absentee Shawnee.[42]

Predictably, even the revised regulations caused consternation. On November 26, 1887, Citizen Potawatomi Business Committee members A. B. Peltier, Battin Pambays, Stephen Neghanquet, and Joseph Moose, the last named being the secretary of the Business Committee, wrote to President Grover Cleveland to complain about the new provisions' unfairness to the Citizen Potawatomi.[43] Two days later tribe member A. F. Navarre wrote to Commissioner Upshaw to add his objections. He claimed that the third clause of the Dawes Act actually *confirmed* the act of May 23, 1872, entitling the Citizen Potawatomi to more land and to the placement of the allotments *anywhere* within the reserve. He also maintained that section two of the 1872 legislation still applied to the Absentee Shawnee, and they must show substantial improvements to entitle them to a home on the Citizen Potawatomi reserve.[44]

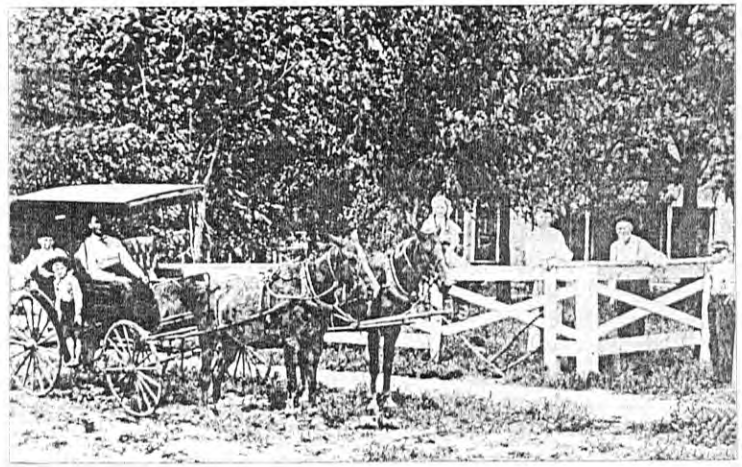
Bolstering Navarre's points, Agent Parsons contrasted the character and condition of the Absentee Shawnee with that of the Citizen Potawatomi. In his view, the Citizen Potawatomi people were not faring as well as the Absentee Shawnee, who had better living conditions and resources. Parsons also indicated that it would be unfair to limit the selection of lands to the Citizen Potawatomi south of Little River, because "the land to the north is far superior

to that of the south."[45] Further, he noted that few of the Citizen Potawatomi still in Kansas would be willing to remove to the Indian Territory unless they were allowed to select lands north of Little River.[46] This suggests a reason that one hundred Citizen Potawatomi may have been holding out to the very end before being forced from Kansas to the Indian Territory reservation to take allotments.

Others also challenged the scheme. Specifically protesting the formal dividing line wanted by the Absentee Shawnee, in July 1889 Citizen Potawatomi tribe member John Anderson claimed that he was entitled, under the act of 1887, to the quantity of land specified in section one of the act of 1872. Furthermore, he said that he was entitled to allotments under both acts, because both acts were still in effect. Moreover, he argued, if prior claims were disallowed, the

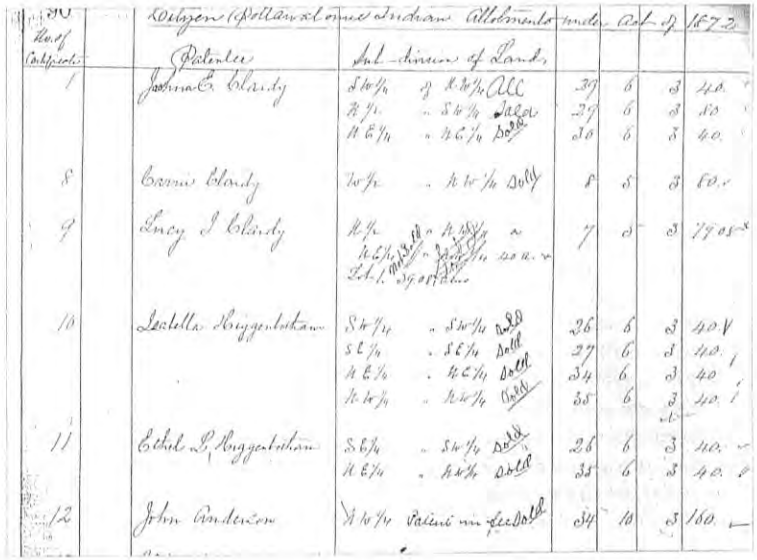
John Anderson, Potawatomi and United States citizen (Courtesy CPN Tribal Rolls).

1872 agreement still entitled him to select land anywhere within the reservation.[47] In September 1889 a legal brief was filed on Anderson's behalf in support of his allegations. Having no grounds to argue, as the act of 1872 had not been repealed by the act of 1887, Commissioner of Indian Affairs Thomas J. Morgan informed Ander-



Above: The John Anderson home near Shawnee Boarding and Industrial School Farm. Anderson is the man in hat and suspenders at far right (Courtesy CPN Tribal Rolls).

Below: Citizen Potawatomi 1872 Allotment Schedule (Courtesy CPN Archives).



No. of Certificate	Patentee	Sub-division of Land				
1	Joshua E. Claudy	S.W.¼	of N.W.¼	27	6	3	40.
		N.¼	" S.W.¼	27	6	3	40
		N.E.¼	" N.E.¼	30	6	3	40.
8	Emma Claudy	W.½	" N.W.¼	8	5	3	80.
9	Lucy J. Claudy	N.½	" N.W.¼	7	5	3	79.05
10	Isabella Higgenbotham	S.W.¼	" S.W.¼	26	6	3	40.
		S.E.¼	" S.E.¼	27	6	3	40.
		N.E.¼	" N.E.¼	34	6	3	40
		N.W.¼	" N.W.¼	35	6	3	40.
11	Ethel L. Higgenbotham	S.E.¼	" S.W.¼	26	6	3	40.
		N.E.¼	" N.W.¼	35	6	3	40.
12	John Anderson	N.W.¼	Patent in fee	34	10	3	160.

son that the Citizen Potawatomi could indeed take lands either under the 1872 act or under the 1887 measure.[48]

Meanwhile, on October 17, 1889, Agent Porter reported on the process of Citizen Potawatomi allotment. He also forwarded a diagram of the reservation and suggested that the Potawatomis be allowed to make selections within a tract in the northwestern corner of it, an area containing nearly four townships and extending nine and one-half miles in the valley of the North Fork. Some tribe members had already settled there. A week later Absentee Shawnee Chief White Turkey audaciously agreed to accept the proposed boundary, if it could be enforced.[49]

In autumn 1889 Commissioner Morgan studied and then chronicled the problems that were emerging as Citizen Potawatomi tried to take their allotments. In a report to Secretary of the Interior John W. Noble he summarized Agent Porter's assessment of the situation, noting that "the Citizen Potawatomi are convinced that they should be allowed to take allotments wherever they so desire in the reservation regardless of the instructions or law."[50] Porter had earlier requested that Morgan send the U.S. Army to protect the work of allotment, to uphold the law, and to enforce the department's instructions, as the Citizen Potawatomi were protesting the allotment process. Rather than send a military police force, Morgan recommended to Secretary Noble that the previous allotment instructions be modified to permit the Citizen Potawatomi to make selections under *both* acts anywhere in the southern portion of the reservation, adding an additional area north of the Little River containing four townships.[51]

Later, in March Morgan went further. He sent his superiors at the Interior Department a message acknowledging the validity of the land allotments to John Anderson under the provisions of the 1872 legislation. The Anderson family would be among the small handful of Citizen Potawatomi families to be issued land allotments under the earlier allotment provisions.[52] In fact, Anderson and his family purchased lands north of the Little River near the Shawnee Boarding and Industrial School Farm where he worked.

While north-south territorial battles ensued between the Citizen Potawatomi and Absentee Shawnee, events of broader impact transpired in the territory. On May 2, 1890, Congress passed an Organic Act providing for the organization of Oklahoma Territory. Settlement of it, thought Washington's bureaucrats, required a reevaluation of policy and procedure. Within two months, on June 25, 1890, the Citizen Potawatomi tribe and the United States Cherokee Com-

mission, generally known as the Jerome Commission, reached an agreement. The tribe relinquished its title to the surplus lands that had been created by the allotment process. In return, they would receive a sum of $160,000, less attorney fees. The following day, June 26, 1890, the Absentee Shawnee and the Jerome Commission agreed that the tribe would relinquish its rights to the surplus lands of the Citizen Potawatomi reserve for a sum of $65,000.[53]

The land question now seemed nearly to be settled. Between July 1890 and February 1891 an estimated 764 Citizen Potawatomi tribe members made their way from Kansas to Oklahoma Territory to participate in the allotment process. In February 1891 the United States Senate resolved that "the rights of the Indians of said tribe [Citizen Potawatomi] to select lands upon said reservation according to their own view as to the desirability of location" would be allowed.[54] However, the local Indian agents in charge of scheduling allotment selections disregarded the Senate's decision. Ultimately, most Citizen Potawatomi allotments were confined to the southern portion of the reservation.[55] Of the 575,870 acres comprising the Citizen Potawatomi reserve in Oklahoma, approximately 199,448 acres were allotted to 1,364 Potawatomis under the modified terms of the Dawes Act.[56] Under the terms of the allotment act of 1872, 137 had purchased a total of 14,810 acres for an estimated $12,144.[57] Approximately 70,832 acres were allotted to 561 Absentee Shawnee.[58] The Jerome Agreement was ratified by the Senate and became law on March 3, 1891. The ratification also called for the confirmation of all individual allotments approved under all previous acts and treaties.[59] In order to accomplish this, those Citizen Potawatomi who had sought refuge on the Prairie Potawatomi reserve in Kansas were now forced into Oklahoma.

The last influx of Citizen Potawatomi into Oklahoma Territory was carried out by newly appointed Kansas Potawatomi Agent J. A. Scott in July 1891. Under escort by the Seventh Calvary, General George Armstrong Custer's former command, more than one hundred Citizen Potawatomi were forced from Kansas to Oklahoma Territory for the express purpose of taking allotments.[60] On September 18, 1891, President Benjamin Harrison approved all allotments that had been issued to the Citizen Potawatomi and Absentee Shawnee and officially dissolved the reservation.[61] In total, 285,090 acres were allotted to the two tribes; 1,130 acres were put in reserve for the Shawnee Agency; 640 acres were given by the Citizen Potawatomi to the Catholic Church for Sacred Heart Mission; and 22,584 acres were set aside for territorial school purposes. The Citi-

zen Potawatomi reservation, originally containing 575,870 acres, now offered 267,066 acres, or 46 percent of its land, for new settlement. On September 22, 1891, a land run gave both white settlers and Indians an opportunity to stake a claim to one of 1,669 homesteads of 160 acre.[62]

The nine-hundred-square-mile Indian Territory reservation was gone. The homeland that the Citizen Potawatomi purchased in 1872 had been their last hope of finding a permanent land base. But the "Act to Provide Homes for the Pottawatomie and Absentee Shawnee Indians in Indian Territory" created intertribal conflicts and eventually had severe financial repercussions for the Citizen Potawatomi. Although the intent of the 1872 allotment act was to restore their sovereignty and provide homes for both tribes, it created a lasting jurisdictional battle as well as enmity between two peoples. The language of the treaty of 1867 had been perfectly clear: the Citizen Potawatomi had been granted "exclusive use and occupancy" of the Indian Territory reservation. After 135 years of struggling to protect its interests, the Citizen Potawatomi tribe finally had a day in court. In 1998 the U.S. Court of Appeals ruled that the remnant Shawnee were without treaty rights and were illegally residing within the Citizen Potawatomi reserve. The court confirmed that the Citizen Potawatomi had "never . . . shared a reservation" with the Absentee Shawnee.[63]

ENDNOTES

[*]Lisa Kraft completed a Bachelor's degree in Anthropology at the University of Oklahoma in 1995 and a Master's degree in History/Museum Studies at the University of Central Oklahoma in 2003. She co-founded the Citizen Potawatomi Nation's Office of Self-Governance in 1997.

[1] James A. Clifton, *The Prairie People: Continuity and Change in Potawatomi Indian Culture*, 1665–1965 (Expanded ed.; Iowa City: University of Iowa Press, 1998), xv. In all, the Potawatomi entered into fifty separate treaties and contracts with the United States and Great Britain. They signed their first treaty in 1789. The (Citizen) Potawatomi signed the last treaty, in 1867, to establish its exclusive reservation in Indian Territory. Charles C. Royce, "Indian Land Cessions in the United States," *Eighteenth Annual Report of the Bureau of American Ethnology*, 1896–1897 (Washington, D.C.: GPO, 1899), 750–66.

[2] Treaty with the Potawatomi, November 15, 1861, 12 Stat., 1191, in Charles J. Kappler, ed., *Indian Affairs: Laws and Treaties*, Vol. 2 (Washington, D.C.: GPO, 1904), 824–28. For additional information on the origins of the Citizen Potawatomi see Joseph Francis Murphy, "Potawatomi of the West: Origins of the Citizen Band" (Ph.D. diss., University of Oklahoma, 1961). The Citizen Potawatomi Nation privately published Murphy's dissertation in 1994. See also Berlin B. Chapman, "The Pottawatomie and Absentee Shawnee Reservation," *The Chronicles of Oklahoma* 24 (Fall 1946): 293–305; and Loren N. Horton, "A Forest People on the Plains: The Potawatomi Indians," in *Oklahoma's Forgotten Indians*, ed. Robert E. Smith (Oklahoma City: Oklahoma Historical Society, 1981), 24–38.

[3] Treaty with the Potawatomi, 1861, Art. 3, 2:825.

[4] Ibid.

[5] Members of the Citizen Potawatomi were originally labeled the "mission" band of Potawatomi while in Indiana, prior to being removed to Kansas, because they retained their Catholic religious practices and were under constant tutelage by Jesuit missionaries. Mission Band became synonymous with Citizen Band as individual members took allotments and United States citizenship under the terms of the act of 1861, hence the appellation "Citizen" Band. Earlier on the Osage and Kansas reserves, the "christianized" Potawatomi were distinguishable from the Prairie Band that chose to hold lands in common under the same act. See Murphy, "Potawatomi of the West," 254, and Horton, "The Potawatomi Indians," 29–30. Choosing to be embodied agents, in charge of their own destinies at a time of incredible social and economic change, the Citizen Potawatomi have been criticized as "sellouts" by some scholars and also as "traditional" Potawatomi, based on modern cultural biases.

[6] Joseph B. Herring, *The Enduring Indians of Kansas: A Century and a Half of Acculturation* (Lawrence: University of Kansas Press, 1990), 130.

[7] Treaty with the Potawatomi, 1861, Art. 3, 2:825.

[8] Treaty with the Potawatomi, March 29, 1866, 14 Stat., 763, in Kappler, ed., *Indian Affairs: Laws and Treaties*, 2:916. The treaty was ratified on April 23, 1866, and proclaimed on May 5, 1866.

[9] John Anderson, Jacob Johnson, and others (Young signing as secretary) to J. Q. Smith, November 6, 1876, Letters Received, Sac and Fox–Shawnee Agency, 1876, Research Division, Oklahoma Historical Society, frame 263 (microfilm, Research Division, Oklahoma Historical Society, Oklahoma City [hereafter cited as OHSRD]).

[10] Craig Miner and William Unrau, *The End of Kansas: A Study of Cultural Revolution, 1854–1871* (Lawrence: University of Kansas Press, 1990), 134.

[11] Murphy, "Potawatomi of the West," 170–71.

[12] Treaty with the Potawatomi, 1861, Art. 8, 2:827.

[13] Treaty with the Potawatomi, February 27, 1867, Art. 3, 15 Stat., 531, in Kappler, ed., *Indian Affairs: Laws and Treaties*, 2:970–74. The treaty of 1867 was ratified on July 25, 1868, and proclaimed on August 7, 1868. The Business Committee is still the recognized governing body of the Citizen Potawatomi Nation with a presiding chairperson.

[14] Ibid., Art. 2, 2:971.

[15] Ibid.

[16] Ibid., Art. 2, 2:970, Art. 4, 2:971, and Art. 6, 2:972.

[17] In discussing the Indian Territory here and in the historic record the designations "thirty-mile square" and "nine-hundred-square-mile" are used interchangeably. The reservation measures roughly thirty miles by thirty miles and is equivalent to nine hundred square miles.

[18] Treaty with the Potawatomi, 1867, Art. 1, 2:970.

[19] D. L. Hawkins to John W. Noble, May 17, 1887, in *Instructions Touching Allotments of Land on the Pottawatomie Reservation*, 51st Cong., 2d sess., 1891, S. Exec. Doc. 64, Serial 2818, 3.

[20] *Annual Report of the Commissioner of Indian Affairs* (Washington, D.C.: GPO, 1871), 94. Prior to the establishment and staffing of the Shawnee Agency of the Bureau of Indian Affairs, the Sac and Fox agent was still reporting on the Citizen

Potawatomi and Absentee Shawnee in 1891. The Sac and Fox Agency was located some forty miles northeast of Shawnee town.

[21] Agreement with the Shawnee Tribe of Indians, March 2, 1867, unratified, in Charles J. Kappler, ed., *Indian Affairs: Laws and Treaties*, Vol. 3 (Washington, D.C.: GPO, 1913), 708–13; *Annual Report of the Commissioner of Indian Affairs*, 94.

[22] Hawkins to Noble, February 25, 1891, S. Exec. Doc. 64, 3.

[23] Ibid.

[24] Columbus Delano's letter of March 16, 1872, is quoted at length in H. Price to H. M. Teller, May 7, 1884, *Letter of the Secretary of the Interior In Answer to Senate Resolution of December 3, 1884, Report Relative to the Leasing of Indian Lands in the Indian Territory*, 48th Cong., 2d sess., 1885, S. Exec. Doc. 17, Serial 2261, 48.

[25] Ibid.

[26] "Act to Provide Homes for the Pottawatomie and Absentee Shawnee Indians in Indian Territory," May 23, 1872, 17 Stat., 159, in Charles J. Kappler, ed., *Indian Affairs: Laws and Treaties*, Vol. 4 (Washington, D.C.: GPO, 1929), 946.

[27] Ibid. Provision one of the act entitled members of the Citizen Potawatomi tribe, as heads of household and to each member twenty-one years of age, not more than one-quarter section or 160 acres, and to each minor not more than 80 acres. Married women over twenty-one were entitled to no more than 160 acres. The second provision of the act was specifically penned for the Absentee Shawnee, allowing 80 acres to the head of the family and persons twenty-one years of age and older and to each minor 20 acres. However, the Absentee Shawnee were not required to purchase their allotments; only the Citizen Potawatomi allottees had to pay. In 1884 Commissioner Hiram Price, thinking of the Potawatomi as a tribal unit, noted that "while not having cash readily available for the purchase, their tribal annuities held by the United States could have been used towards the purchase." Price to Teller, May 7, 1884, S. Exec. Doc. 17, 49.

[28] H. Price to Teller, May 7, 1884, S. Exec. Doc. 17, 49.

[29] Hawkins's report on allotments was summarized in A. B. Upshaw to N. S. Porter, August 10, 1887, S. Exec. Doc. 64, 6–7.

[30] Ibid., 7; Hawkins to Noble, May 17, 1887, in ibid., 3; Price to Teller, May 7, 1884, S. Exec. Doc. 17, 49.

[31] H. Price to E. B. Townsend, April 11, 1883, Pottawatomie Indians, October 18, 1866–December 5, 1895, Indian History, Culture and Acculturation, Sac and Fox–Shawnee Agency, frame 160, OHSRD. In 1887 Acting Commissioner of Indian Affairs Hawkins declared that it had been the intent of the Department of the Interior, with the act of 1872, that allotments be confined to "separate and distinct portions of the reservation." Hawkins to Noble, May 17, 1887, S. Exec. Doc. 64, 4. This was an administrative decision and not a legal one; the 1872 act contained no language that would restrict the Citizen Potawatomi from taking allotments anywhere on the Potawatomi reservation.

[32] Price to H. M. Teller, May 7, 1884, S. Exec. Doc. 17, 49; Hawkins to Noble, May 17, 1887, S. Exec. Doc. 64, 2.

[33] H. Price to A. F. Navarre and John Anderson, February 26, 1884, *Pottawatomie Indians of Kansas and the Indian Territory*, 48th Cong., 1st sess., H. R. Rpt. 1956, Serial 2259, 4.

[34] Hawkins to Noble, May 17, 1887, S. Exec. Doc. 64, 3.

[35] Francis Paul Prucha, ed., *Documents of United States Indian Policy* (2d ed.; Lincoln: University of Nebraska Press, 1990), 171–74. The General Allotment Act of February 8, 1887, is referenced as *U.S. Statutes at Large*, 24:388–91. The General Allotment Act is also commonly referred to as the Dawes Act, signed into law by President Grover Cleveland.

[36] Hawkins to Noble, May 17, 1887, S. Exec. Doc. 64, 4. There is a discrepancy in the total tillable acres of the Citizen Potawatomi reserve. In a letter from Secretary of the Interior L. Q. C. Lamar to President Grover Cleveland, dated May 23, 1887, Lamar indicated that there were 125,000 tillable acres. See S. Exec. Doc. 64, 5.

[37] Upshaw to Porter, August 10, 1887, S. Exec. Doc. 64, 6.

[38] Hawkins to Noble, May 17, 1887, S. Exec. Doc. 64, 4.

[39] "An Act to Provide Homes for the Pottawatomie and Absentee Shawnee Indians in the Indian Territory," May 23, 1872, in Kappler, ed., *Indian Affairs: Laws and Treaties*, 4:946. The second provision allowed for eighty acres for only one head of household and twenty acres for each child.

[40] Prucha, ed., *Documents of United States Indian Policy*, 171–74; General Allotment Act, February 8, 1887, *U.S. Statutes at Large*, 24:388–91.

[41] Prucha, ed., *Documents of United States Indian Policy*, 171–74; "An Act to Provide Homes for the Pottawatomie and Absentee Shawnee Indians in the Indian Territory," May 23, 1872, in Kappler, ed., *Indian Affairs: Laws and Treaties*, 4:946; General Allotment Act, February 8, 1887, *U.S. Statutes at Large*, 24:388–91. The first section of the 1872 act entitled each head of the family to 160 acres and each minor to eighty acres.

[42] Upshaw to Porter, August 10, 1887, S. Exec. Doc. 64, 6–8.

[43] The Potawatomis' letter was summarized in J. D. C. Atkins to L. Q. C. Lamar, December 28, 1887, S. Exec. Doc. 64, 10.

[44] Navarre's letter of November 28, 1887, to Upshaw is summarized in ibid., 9.

[45] Parsons's report is summarized in ibid., 9.

[46] Ibid.

[47] Anderson's arguments are summarized in T. J. Morgan to John Noble, December 5, 1889, S. Exec. Doc. 64, 13.

[48] T. J. Morgan to John Noble, March 4, 1890, S. Exec. Doc. 64, 15.

[49] Morgan to Noble, December 5, 1889, S. Exec. Doc. 64, 13.

[50] Ibid.

[51] Morgan to Noble, March 4, 1890, S. Exec. Doc. 64, 15–16; Citizen Potawatomi Indian Allotments under Act of 1872, [n.d.], Citizen Potawatomi Nation Archives, Shawnee, Oklahoma. Although Agents Moses Neal and N. S. Porter were originally put in charge of scheduling allotments in 1887, references are also made to Agent Samual L. Patrick and an Agent Parsons as also working toward allotting lands under their agency appointments.

[52] Ibid.

[53] Act of March 3, 1891, 23 Stat., 372, "Acts of the Fifty-First Congress, Second Session [Jerome Agreement], in Charles J. Kappler, ed., *Indian Affairs: Laws and Treaties*, Vol. 1 (Washington, D.C.: GPO, 1902), 409–13.

[54] Quoted in John Noble to President of the Senate, February 26, 1891, S. Exec. Doc. 64, 1.

[55] The Citizen Potawatomi Nation Archives (Shawnee, Oklahoma) holds one of the two original schedules of allotments that were prepared under the August 10, 1887, allotment provisions. Listed within the pages are the "Citizen Pottawatomie Indian Allotments under Act of 1887," "Citizen Potawatomi Indian Allotments under Act of 1872," and "Absentee Shawnee Indian Allotments under Act of 1887." It should be mentioned here that the Dawes Act was still in effect until 1934 when it was repealed by the Indian Reorganization Act.

[56] According to the original schedule of allotments, Citizen Potawatomi entries for 1887 total 199,448 acres. Although the schedule ends with the number 1364, an allotment was not issued to number 637. Additionally, an allotment was made to number 1299 1/2. A notation in the back of the 1887 allotment schedule reminds the recorder that the "Dept. counts Indian ages from July 12, 1889." This confirms the date approved by Secretary John Noble in allotting land to children born since the May 24, 1887, presidential order initially authorizing allotments to the Citizen Potawatomi. See Citizen Potawatomi Nation Archives, Shawnee, Oklahoma.

[57] In all, 137 Citizen Potawatomi tribe members were assigned allotments under the terms of the act of 1872. Certificate numbers 2 through 7 and 15 through 17 are skipped in the schedule, and no assignment was made to number 137. There are also three additional allotments made to 53 "b", 54 "b", and 91 "b". The 1872 schedule incorrectly reports 144 certificates. In a letter dated December 14, 1891, to Sac and Fox Agency Indian Agent Samuel L. Patrick, there is a notation that reads "For ninety-seven allotments taken by the Citizen Band of Potawatomies in addition to the number agreed upon, viz: 1,400, amounting to 13,981.58 acres at $1.00 [=] [$] 13,981.58." Citizen Potawatomi Nation Archives, Shawnee, Oklahoma. This amount was deducted from the $160,000 payment for surplus lands. These ninety-seven allotments may refer to the 1872 allotments. Rather than tribe members having to pay for their land, it appears that money was withdrawn from the tribal trust fund. The government's initial charge for 160 acres under the 1872 act was $131.60. This equates to 82 cents an acre or $12,144 for 14,810 acres. The ninety-seven figure may also reflect those members who did not personally pay for the land out of their own capital.

[58] The allotment schedule for the Absentee Shawnee lists 566 allotments for the entire tribe. However, no assignment was made to numbers 367 or 368. Likewise, Allotment 200 was issued to the Associate Executive Committee of Friends Church on Indian Affairs (157 acres), Allotment 334 was selected for agency purposes and a physician's office (20 acres), and Allotment 335 was selected for the Shawnee Agency Boarding and Industrial School Farm (313 acres). See Citizen Potawatomi Nation Archives, Shawnee, Oklahoma.

[59] Act of March 3, 1891, in Kappler, ed., *Indian Affairs: Laws and Treaties*, 1:407–15.

[60] Herring, *Enduring Indians of Kansas*, 141.

[61] By the President of the United States: A Proclamation, September 18, 1891, in Kappler, ed., *Indian Affairs: Laws and Treaties*, 1:949–53.

[62] C. W. Mills, "Settlement of Opened, Unopened, and Allotted Lands, Etc. in Oklahoma," *Oklahoma State Gazetteer and Business Directory*, Vol. 1 (1898), lists the Citizen Potawatomi reservation as 575,877 acres, with 1,496 Citizen Potawatomi receiving 216,679.42 acres and 596 Absentee Shawnee receiving 70,791.47 acres. The account also lists 510.63 reserve acres and 22,653.56 acres for school lands. The total acreage subject to entry was 266,241.93 at $1.50 an acre. There is a discrepancy of 1,000 acres. Other conflicting numbers of allotments are found on page 365 in the 1891 *Annual Report of the Commissioner of Indian Affairs*; there, Samuel L. Patrick lists the number of Citizen Potawatomi allotments at 1,469 and the Absentee Shawnee at 563 (Lower Shawnee 368 and Upper Shawnee 195). Likewise, Luther B. Hill concludes on page 294 of his 1908 publication *A History of the State of Oklahoma* that a total of 1,469 allotments were made to Citizen Potawatomi. Both Grant Foreman, in *A History of Oklahoma* (1942), page 245, and Berlin B. Chapman, in "The Pottawatomie and Absentee Shawnee Reservation," page 305, assert that 1,498 Citizen Potawatomi received 215,679.42 acres and 563 Absentee Shawnee received 70,791.47 with 275,000 acres opened to white settlement. Clearly, there is a range of

opinion about the number of allotments and acres agreed upon by the close of 1891. The figures for this paper have come directly from names and the numbers in the original allotment schedule. In a letter dated November 2, 1891, Commissioner of Indian Affairs Thomas J. Morgan gave permission for Indians to "avail themselves of the privileges of the homestead laws" and said that he saw no reason why tribe members should not be allowed to participate in the land run. T. J. Morgan to S. L. Patrick, November 2, 1891, Pottawatomie Indians, October 18, 1866–December 5, 1895, Indian History, Culture and Acculturation, Sac and Fox–Shawnee Agency, frames 264–66, OHSRD. After examining the original schedules, the author manually plotted each allotment over modern topographic maps in order to create a reservation base map for the purpose of recording the locations of historic structures and prehistoric archaeological sites.

[63] *Citizen Band Potawatomi Indian Tribe of Oklahoma v. L. W. Collier and the Absentee Shawnee Tribe of Oklahoma*, Docket Number CIV-92-2161-R (1998 WL 220093 [U.S. Court of Appeals, 10th Cir. (Okla.)]); *Citizen Band of Potawatomi Indians of Oklahoma v. United States*, 6 I. C. C. 646 (September 18, 1958), 663–65.