



## The Nemaha Half-Breed Reservation

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Article Summary: The reservation was established by treaty in 1830. It set aside land for people of mixed ancestry—the descendants of French-Canadian trappers and women of various tribes including the Iowa, Oto, Omaha, Santee, and Yankton. The federal government first made allotments in severalty to Indians on the Nemaha Half-Breed Reservation. The first patent was issued to an Indian on this reservation three years before the first entry under the Homestead Act of 1862. The author was an expert witness in the Oto and Missouri Case, presenting a unique perspective on the history of this reservation and the disputes over the land survey. By 1882, the reservation was closed and the Indians had been removed to present-day Oklahoma.

### Cataloging Information:

Names: Isaac McCoy, William Clark, Carey A Harris, John Calvin McCoy, J W Polke, T H Crawford, D D Mitchell, George W Manypenny, Joseph L Sharp, Charles Rouleau (Rulo), Joseph Tesson, William Matt Stark, C E Mix, Alfred B Greenwood, James W Denver, A D Kirk, John C Miller, William Edward Sloan, Christopher H Mott, David Crawford, Jacob Thompson, Lewis Neal [Louis Neales/Louis Neal], James Craig, William M Stark, George Washington [a half breed], Houston Nuckolls, George Shiras, Daniel Vanderslice, Jackson Vessor, Theresa Robidoux [Robedoux], Pelagie Robidoux, Amelia Rulo [Rouleau], Albert L Green, Thomas H LeDuc

The list of **non-Indian settlers** just west of the "McCoy" survey line is listed on page 13 of the article.

A list, "**Names of Half Breeds and Mixed Bloods to whom lands have been allotted between the Two Nemaha Rivers in Nebraska Territory,**" is cited on page 19 but was not printed with the article.

Keywords: Oto; Missouri Indians; Nemaha; Siouan-speaking nation; House Public Lands Committee; Yankton; Omaha Indians; Sioux; Office of Indian Affairs; Indian Claims Commission Act

Photographs / Images: McCoy Survey of Half-Breed Tract, 1837-1838; Patent for land in the Half-Breed Reservation issued to Susie Deroin, September 10, 1860

## THE NEMAHA HALF-BREED RESERVATION

BY BERLIN B. CHAPMAN

**I**T was on the Nemaha Half-Breed Reservation in the southeast corner of present Nebraska that the federal government first made allotments in severalty to Indians. Three years before the first entry under the Homestead Act of 1862 was made on Nebraska land, the United States issued to an Indian on this reservation the first patent for an allotment in severalty. This tract is also of historical significance as the home of the Oto who gave the name "Nebraska" to both the river and state, and whose memory is perpetuated in the name of Otoe County. The word "Nemaha" is derived from an Oto word meaning water of cultivation - "ne," water, and "maha" planting or cultivating. The Oto and the Missouri, a tribe confederated with them, once occupied the country between the Great Nemaha and Platte rivers, and later acquired a reservation on the Big Blue River at the Kansas border. By 1882 they had removed to a reservation in present Oklahoma, but the

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question of adequate compensation for their Nebraska lands did not reach the United States Supreme Court until 1955.<sup>1</sup>

Both the Oto and Missouri descended from a Siouan-speaking nation at one time located just west of Lake Michigan.<sup>2</sup> The Missouri moved southwest into what is now central Missouri and about 1673 established themselves near the mouth of Grand River. By tradition the Oto accompanied them to this location, and then proceeded up the Missouri River to become a separate unit. After a careful study of contemporary maps and other sources Mildred Mott concluded that the Oto did not accompany the Missouri, but traveled westward across the northern part of present Iowa, and about the year 1700 descended the Missouri to the mouth of the Platte.<sup>3</sup> There the Missouri joined them about 1798.

A study made by the House Public Lands Committee and the Library of Congress gave the "Original Range" of the Oto and Missouri as comprising the following compact area within present states: the northwest third of Missouri, the southwest corner of Iowa, the southeast corner of Nebraska, and the northeast corner of Kansas.<sup>4</sup> About 1800 the Oto and Missouri, estimated at from 1,200

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<sup>1</sup> *The Otoe and Missouri Tribe of Indians v. United States*, Indian Claims Commission, II (1953), 335; Court of Claims, CXXXI (1955), 593; *U. S. Supreme Court Reports*, CCCL (1955), 848.

<sup>2</sup> Louis Houck, *History of Missouri* (Chicago, 1908), I, 173-175.

<sup>3</sup> Mildred Mott, "The Relation of Historic Indian Tribes to Archaeological Manifestations in Iowa," *Iowa Journal of History and Politics*, XXXVI (July, 1938), 258-261. Mildred Mott has been a student of early Oto history before and since her marriage to Waldo R. Wedel. Her study on "The Prehistoric and Historic Habitat of the Missouri and Oto Indians" is a manuscript of fifty-two pages prepared in 1950 at the request of the Justice Department and concerns the Oto and Missouri case. A copy is in the office of the Indian Claims Commission, Washington, D. C.

<sup>4</sup> U. S. Congress, House Committee on Interior and Insular Affairs, *Compilation of Material Relating to the Indians of the United States and the Territory of Alaska, Including Certain Laws and Treaties Affecting Such Indians*, pursuant to House Res. 66, 81st Cong., 2d sess., June 13, 1950 (Hearings, Eighty-first Congress, Serial No. 30), p. 605.

to 2,000 in number, held the southeast corner of Nebraska between the Great Nemaha and the Platte. To all intents and purposes they were one tribe during their occupancy of lands in Nebraska. In this study the term Oto will be understood to include the Missouri.

On July 15, 1830, at Prairie du Chien the United States entered into a treaty with several tribes and bands including the Oto.<sup>5</sup> Article 10 of the treaty provided for the establishment of the Nemaha Half-Breed Reservation. It extended from the Missouri River west between the Great Nemaha and the Little Nemaha for a distance of ten miles, and comprised about 138,000 acres. The treaty states that the Omaha, Iowa, and Oto for themselves, and in behalf of the Yankton and Santee bands of Sioux earnestly requested that they might be permitted to make some provision for their half-breeds, and particularly that they might bestow upon them this tract of country. The tract "having belonged to the Ottoes, and having been exclusively ceded by them," it was agreed that the Omaha, Iowa, and Yankton and Santee bands of Sioux should pay the Oto the sum of \$3,000, which was accordingly paid.

It was agreed that half-breeds of the above named tribes and bands might "be suffered to occupy said tract of land; holding it in the same manner, and by the same title that other Indian titles are held." The President of the United States might thereafter assign to any of the half-breeds, to be held by him or them in fee simple, any portion of the tract, not exceeding 640 acres to each individual. This was the first of a long list of treaties and acts of Congress authorizing allotments of land in severalty to Indians.<sup>6</sup>

It is difficult to determine the individuals and interests that promoted the establishment of the reservation. Nor

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<sup>5</sup> U. S. *Statutes at Large*, VII, 328; C. C. Royce, *Indian Land Cessions* (U. S. Bureau of American Ethnology, Eighteenth Annual Report [Washington, 1899]), pp. 726-727.

<sup>6</sup> See "Schedule of Treaties and Acts of Congress Authorizing Allotments of Land in Severalty," Royce, *op. cit.*, pp. 645-647.



is it easy to determine what filial obligations, if any, the Oto owed to the above named tribes and bands. A careful search did not reveal any document showing that the United States requested or suggested that the Oto cede any part of their lands to the half-breeds. The United States received no benefit from the cession, but was a party to the treaty and undoubtedly was the dominant force, as it was the only power able to make treaties, and was the guardian of the property interests of its Indian wards.

Lands comprising the Nemaha Half-Breed Reservation are in an area of abundant rainfall, productive soils and diversified agriculture. This area is the only part of Nebraska comparable in vegetation to Indiana, Ohio, and Kentucky.

By 1830 records were being made of comparable land values, and census figures were approaching accuracy. Agent John Dougherty in that year estimated the Oto as 1,500. In 1833 Henry L. Ellsworth referred to the "numerous half-breeds" who had the reservation.<sup>7</sup> Maximilian, Prince of Wied, estimated their number from 150 to 200.<sup>8</sup>

It was evident that the Nemaha Half-Breed Reservation might become a white man's region because allottees could secure patents and sell their lands. The reservation adjoined lands subject to white settlement, and some of the claimants were suspected to be more of white blood than of Indian. Reverend Isaac McCoy said that the reservation might open the door to the ingress of white population into the Indian country, and, most likely without the possibility of closing it. He observed that this would result in injury to the Indians, and tend to render ineffectual

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<sup>7</sup> Ellsworth to Commissioner Albert Herring, September 23, 1833, *Journal of Commissioners*, September 2, 1833 to January 21, 1834 (Treaty File, Office of Indian Affairs, National Archives), pp. 13-14.

<sup>8</sup> Maximilian, Prince of Wied, *Travels in the Interior of North America* (R. G. Thwaites, ed., *Early Western Travels* [Cleveland, 1906], XXII), I, 259.

the line of demarcation or "the permanent Indian frontier."<sup>9</sup>

A letter from the Oto and Missouri, Omaha, and Yankton was addressed to Superintendent William Clark on October 15, 1836, stating that the attention of the government had been called twice to the matter of making the reservation available to the half-breeds.<sup>10</sup> The letter observed that the lands were unsurveyed and consequently unoccupied by those for whose use the cession had been made; that "many of those persons are now growing up and anxious to settle upon those lands; but are at the same time unwilling to attempt any improvement without some guarantee that they will be permitted to hold them."

Commissioner Carey A. Harris instructed McCoy to ascertain who were the proper claimants, and to decide whether it would or would not be expedient to subdivide the reservation among them and give to each a patent. McCoy reported in favor of marking the exterior boundaries of the entire tract so that it might not embarrass assignments of land to be made to others. He believed that to subdivide the land and issue patents "would be followed by the worst of consequences."<sup>11</sup>

John Calvin McCoy surveyed the reservation under instructions from his father, Reverend Isaac McCoy. On the east he did not include certain islands in the Missouri River, nor did he go west on the Great Nemaha River a sufficient distance to locate the western border of the reservation correctly. His line was erroneous, as it extended but eight miles, seventy-six chains and eighty-three links, instead of ten miles in a direct line from the mouth of the Great Nemaha. On September 17, 1838, he reported that the

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<sup>9</sup> Isaac McCoy, *History of Baptist Indian Missions* (Washington, 1840), pp. 525-526; F. L. Paxson, *History of the American Frontier, 1763-1893*, Chap. XXXI, "The Permanent Indian Frontier, 1825-1841."

<sup>10</sup> Ietan et al. to Clark, October 15, 1836, Treaty File (Office of Indian Affairs, National Archives).

<sup>11</sup> McCoy, *loc. cit.*

reservation contained 143,647.33 acres.<sup>12</sup> The difficulties under which McCoy conducted the survey would indicate that its accuracy was endangered. Nearly twenty years later he wrote:

Before I had completed the survey of the meanders of the Great Nemaha I was compelled to return home in consequence of sickness and a subsequent death in the family; and in order not to delay the survey I directed Mr. J. W. Polke to survey the meanders of the Missouri River from the mouth of the Big up to that of the Little Nemaha. Mr. Polke though not a practical surveyor, was a highly intelligent and educated young man and as I thought fully competent to [do] the work. About the time he completed this work I went up and met them returning home after completing the survey; but in consequence of continued sickness in family I brought back the company to Westport, Mo.

Next year I think my father directed Mr. Donohoe to go up and complete the survey which he did, and I presume a report of the same was made. Sometime afterwards, perhaps the next year, it was discovered that his survey of the western line was incorrect, and I was sent up with a party to correct it, which I did. I had forgotten that Mr. Donohoe had made any survey of the line in question until reminded of it by Mr. Polke.

On February 23, 1838, Commissioner Harris authorized Agent Dougherty, on some convenient occasion, to extinguish the titles of the half-breeds to the reservation.<sup>13</sup> It seemed to Harris that the assent of each half-breed who was of age should be obtained, but he left to Dougherty to determine from his knowledge of Indian customs and laws the proper course to pursue.

In accordance with instructions given by the War Department Reverend Isaac McCoy visited certain tribes and on December 22, 1841, made a report in which he included the "names, residences, and condition" of 121 half-breeds who had an interest in the Nemaha Half-Breed

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<sup>12</sup> McCoy's field notes are in *Ancient and Miscellaneous Surveys* (Office of Indian Affairs, National Archives), IV, No. 10, 227-264. See also Royce, *op. cit.*, p. 727.

<sup>13</sup> Harris to Dougherty, February 23, 1838, Letter Book (Office of Indian Affairs, National Archives), XXIII, 365-366.



Reservation.<sup>14</sup> He listed 50 Iowa, 47 Omaha, 21 Oto, and 3 Sioux. McCoy said:

There are doubtless others concerning whom I have not received information. A considerable portion of them are of mature age, but the condition of nearly all of whom as their guardian in extinguishing their claims. They are I am informed is such as to require the government to act no more competent to act for themselves in this matter than others of the uncivilized tribes to which they respectively belong.

It is exceedingly unfortunate that such a reservation was made. None have ever occupied this land, and most of the claimants, I presume, scarcely know that such a reservation has been made. The extinguishment of their claims is important in view of the settlement of other Indian tribes, but time and labor will be required to identify all the claimants. Some have died since the treaty, and have left heirs to be enquired for, guardians must be applied to in some cases, etc. Since the condition of these people is such that bargaining with, at least the greater part of them, would be mere form without substance, I would respectfully recommend that the government fix upon a sum, say \$300, to each, and let this amount be paid to them as fast as they can be identified. The consent of each can, no doubt be obtained, if it be deemed necessary, but the formalities of a contract, I respectfully report, would be, in most cases as unmeaning as contracts with minors generally.

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<sup>14</sup> Commissioner T. H. Crawford to McCoy, May 17, 1841, *ibid.*, XXX, 279-280; McCoy to Secretary John C. Spencer, December 22, 1841, Miscellaneous M 1267-1842 (Office of Indian Affairs, National Archives).

McCoy's list of Oto half-breeds is as follows: "Joseph Robedaux' children, viz. son named Robedaux of full age, living with the Otoes. Son Jo, and a daughter named Lalebre, at the same place. Son Harry at Portage de Sioux, Missouri, and daughters Rosella and Mani with Ioways, all of mature age.

"Mitchell Robedaux' wife deceased, and their son about fifteen years of age, with the Otoes.

"Dr. Gale's daughter about eighteen years of age, at Bellevue. Capt G — — 's daughter about sixteen years of age, living with the Otoes. Baptiste Roy's daughter, married to a white man in St. Louis named Lege. A woman who is a daughter of Sergeant Ceders, with the Otoes. Joseph Bennard's children, viz. two sons from fifteen to seventeen years of age, and a daughter about fourteen, all living with their father on Neshneleotany river, Mo.

"Rogers' daughter married to Sergeant R — — at Fort Leavenworth. Cleghorn's son Jim Cleghorn, with the Otoes.

"Nograin's daughter, about thirteen years of age, among the Otoes. Vascas Bennet's daughter, deceased. Father and mother both dead. The child's uncle is an Otoe chief.

"A young man named Neowache, son of Victoire Lagotree, was taken to Col. Johnson's school in Kentucky in the summer of 1841. Papan's daughter, deceased. Her uncle and aunt are Otoes, and with that tribe. *In all Otoes 21.*"



Superintendent Thomas Harvey in 1845 suggested that measures be taken to extinguish the half-breed claims.<sup>15</sup> He noted that the time might not be distant when much difficulty would exist as to who were entitled to the reservation, the claimants being members of so many different tribes, and scattered over an extensive district of country. Three years later he called attention to the reservation and said it should be either purchased, or surveyed and assigned to the proper claimants.<sup>16</sup> He observed that if the matter were not attended to in time, difficulty would arise should that section of the country be opened to settlement.

In 1849 Superintendent D. D. Mitchell urged speedy action in the purchase of the lands, saying that many of the claimants were desirous to sell them, while but few evinced any disposition to settle there.<sup>17</sup> Considering the vast tide of emigration westward, Mitchell said the time was not distant when it would require twenty-fold the amount to extinguish the title of the claimants that was necessary in 1849. He said the purchase would tend to break up the dens of whisky smugglers. In 1853 there were sixty half-breeds between the Great Nemaha and the Little Nemaha.<sup>18</sup>

Congress by an act of July 31, 1854, authorized and required the President to cause the Nemaha Half-Breed Reservation to be surveyed and allotted to the persons properly entitled to the same, in fee simple, in such manner and under such rules and regulations as he might pre-

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<sup>15</sup> Harvey to Commissioner T. H. Crawford, September 10, 1845, *Sen. Docs.*, 29th Cong., 1st Sess. (Serial No. 470), I, 535.

<sup>16</sup> Harvey to Commissioner William Medill, October 4, 1848, *House Ex. Docs.*, 30th Cong., 2d sess. (Serial No. 537), I, 439.

<sup>17</sup> Mitchell to Commissioner Orlando Brown, October 13, 1849, *Sen. Ex. Docs.*, 31st Cong., 1st sess. (Serial No. 551), III, 1068. See also Commissioner L. Lea to Secretary A. H. H. Stuart, November 27, 1850, *ibid.*; 31st Cong., 2d Sess. (Serial No. 587), I, 39; *ibid.*, November 27, 1851, 32d Cong., 1st sess. (Serial No. 613), III, 268.

<sup>18</sup> *Report of Commissioner of Indian Affairs, 1853, Sen. Ex. Docs.*, 33rd Cong., 1st sess. (Serial No. 690), I, 247.

scribe.<sup>19</sup> To defray the expenses of the same, Congress appropriated the sum of \$10,922.29.

On May 14, 1856, Commissioner George W. Manypenny notified Joseph L. Sharp of Glenwood, Iowa, that he was appointed a commissioner to ascertain and report the number and names of such of the half-breeds and mixed bloods as were then living of the Omaha, Iowa, and Oto tribes and of the Yankton and Santee bands of Sioux.<sup>20</sup> Sharp's report was to embrace a list containing the names of all applicants, arranged first by tribes, second by families, and lastly single persons, showing the age, sex, relationship to the tribe to which the applicant claimed to belong, the place of residence of each; also who were orphans or wards, and their guardians if any, and such other facts as might be useful and proper to state. Whether Sharp admitted or rejected an applicant, he should briefly give his reasons therefor. Sharp was directed to enter upon the discharge of his duties at as early a period as practicable, but he made in 1856 no report of his progress.<sup>21</sup>

Sharp found quite a number of claimants settled upon the reservation, but others were living with tribes far from it. On April 24, 1857, he reported that he had carefully arranged the whole list containing the names of all the half-breeds and mixed bloods.<sup>22</sup> He listed 185 Yankton, 105 Oto, 62 Omaha, 58 Iowa, and 17 Santee, making in all admitted

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<sup>19</sup> *U. S. Statutes at Large*, X, 332.

<sup>20</sup> Manypenny to Sharp, May 14, 1856, Letter Book (Office of Indian Affairs, National Archives), LIV, 224-227.

<sup>21</sup> *Ibid.*, January 26, 1857, LVI, 95. The Office of Indian Affairs was about as slow as Sharp. On June 2 Sharp inquired as to the "kind and degree" of mixed bloods whose claims should be entertained. On September 1 Acting Commissioner C. E. Mix replied that any degree of the proper Indian blood mixed with white or African blood was deemed admissible; Mix to Sharp, September 1, 1856, *ibid.*, LV, 74.

<sup>22</sup> Sharp to Commissioner J. W. Denver, April 24, 1857, Great Nemaha S 323-1857 (Office of Indian Affairs, National Archives). For a general account, see Sharp to Manypenny, February 24, 1857, *ibid.*, S 279-1857. With this report is a list of the Yankton prepared according to Sharp's instructions, also several dozen affidavits by claimants.

427. He "found on the Sioux list and rejected," 42. Also, 12 were "mixed with the African and suspended."

The Yankton and Iowa urged that a special agent or commission be appointed to allot the lands because "no good feelings or friendship" existed among the different bloods that occupied the lands. About one-third of the reservation was woodland. Charles Rouleau (or Rulo) and Joseph Tesson, writing for the Yankton and Iowa, said of the reservation:

There are some bad men settled upon it, and bad white men in its immediate vicinity. These white men are ever ready to traffic whisky to the half-breeds for the privilege of chopping and carrying off timber which they have done and are now doing to a considerable extent, and greatly to the injury of the reserve. Woodyards have been established upon it for the purpose of supplying steamboats with wood. In this way thousands of dollars worth of the best timber has been destroyed and carried off; and that operation is now going on largely. Gen. Vanderslice, the Indian Agent of the Great Nemaha Agency, has posted up notices warning all persons not to trespass upon said reserve but having (as we are informed) no legal means to punish the guilty parties, his notices have been disregarded.<sup>23</sup>

On August 4 William Matt Stark of Xenia, Ohio, was appointed a special agent for the purpose of making assignments and selections of land on the reservation.<sup>24</sup> He was instructed, where there was no controversy, to allow each person on the census roll to select the number of acres to which he was entitled, so as to include his improvements, if the same could be effected without a disregard of the subdivisional lines of survey. Priority of occupancy should be a governing factor in disputes between contesting claimants. After the improvement selections were made by allottees, due public notice should be given to all other claimants. Lands should be assigned or allotted to absentees without discriminating between participants.

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<sup>23</sup> Charles Rulo and Joseph Tesson to Denver, April 20, 1857, Great Nemaha R 216-1857 (Office of Indian Affairs, National Archives).

<sup>24</sup> See letter of instructions from Denver to Stark, August 4, 1857, Letter Book (Office of Indian Affairs, National Archives), LVII, 234-238; see also Mix to Stark, August 18, 1857, *ibid.*, p. 282; Denver to Stark, October 26, 1857, *ibid.*, p. 478.



Stark was instructed to exercise a sound discretion in connection with the quality of the soil, and so far as practicable to give an equal portion of woodland and prairie to each individual. Each allottee should be entitled to 320 acres, without any reference to age or sex. No allotments should be made west of the McCoy line until the new line had been established by the Surveyor General. By September 25 some allottees were selling their allotments.

Years later Stark testified that he received from the Office of Indian Affairs a list dated February 4, 1858, containing the names of the half-breeds entitled to allotment of land.<sup>25</sup> A notation in the files of the Office of Indian Affairs states that there were 445 names "in the list as furnished to Special Agent Stark." The list gave the name, sex, age, degree of blood, and tribe of certain Indians. Stark reported that a hundred new names might be submitted if children born since the taking of the census were entitled to participate in the allotment.<sup>26</sup> He noted that there were already enough allottees to take all the lands, according to the township plat. Acting Commissioner C. E. Mix directed that only such half-breeds or mixed bloods as were born prior to and living at the time of the completion of the census by Sharp were entitled

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<sup>25</sup> *J. D. Hegler v. George Faulkner et al.*, U. S. Supreme Court Reports, CLIII (1894), 109. An unsuccessful search was made for this list of half-breeds. A cross section of it, giving the names of two Iowa and two Omaha, is in the record in the case of *Hegler v. Faulkner*, and is available in the U. S. District Court in Omaha, and in the U. S. Supreme Court. This list should not be confused with the list of 389 allottees referred to in footnote 49 below. Stark's list had six columns of information. One of the columns listed family relationship such as father, son, etc.

<sup>26</sup> Stark to Mix, February 14, 1858, Great Nemaha S 578-1858 (Office of Indian Affairs, National Archives). Stark said: "Mixed bloods are very prolific when there is a half section of land at stake!" See also Mix to Secretary Jacob Thompson, April 30, 1858, Report Book (Office of Indian Affairs, National Archives), X, 469-470.



to participate in the allotment.<sup>27</sup> Commissioner Alfred B. Greenwood in 1860 clarified the matter by saying that allottees must have been born prior to May 14, 1856, the date Sharp was appointed to take the census.

Between 1855 and 1858 the west boundary of the Nemaha Half-Breed Reservation was several times resurveyed.<sup>28</sup> During the interim between his two terms as Commissioner of Indian Affairs, James W. Denver noted that the treaty of 1830 called for boundaries, and that the eastern boundary of the reservation was the western boundary of Missouri. He added: "McCoy never did do anything right and his blunders have already caused very great trouble with that same reserve."<sup>29</sup>

White settlers just west of the McCoy line used well-known frontier methods in protesting the extension of that line farther west.<sup>30</sup> They signed petitions requesting the establishment of "the original line," and in February,

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<sup>27</sup> Mix to Stark, February 20, 1858, Letter Book (Office of Indian Affairs, National Archives), LVIII, 328-329; Commissioner A. B. Greenwood to Christopher H. Mott and David Crawford, April 19, 1860, *ibid.*, LXIII, 388-392. In transferring the tenure by community to allotments in severalty, the Interior Department was guided by the opinion of Caleb Cushing, April 29, 1854, recorded in Opinions, Attorney General's Office (Justice Department, National Archives), I, 438-440.

<sup>28</sup> For an excellent summary of this matter, see Roscoe E. Bell, Assistant Director of the Bureau of Land Management, to A. Devitt Vanech, Assistant Attorney General, May 6, 1948, Interior Department, Bureau of Land Management, No. 19219 "R".

<sup>29</sup> Denver to Stark, March 12, 1858, Great Nemaha S 595-1858, (Office of Indian Affairs, National Archives). An unfavorable comment on McCoy surveys is in the letter of M. Stokes to Secretary Lewis Cass, August 5, 1833, *Sen. Docs.*, 23rd Cong., 1st sess. (Serial No. 247), X, 494-497.

<sup>30</sup> On February 24, 1857, A. D. Kirk sent a letter to the Commissioner of the General Land Office alleging that the southwestern corner of "the Reservation as perpetuated by Mr. McCoy in 1838, was *then* at the distance of 10 miles, and that owing to the formation of an island embraced between the old and new channel of the Missouri river, the present mouth of the Big Nemaha is not 10 miles, and that having once been recognized by the Department as the Western boundary of the Reservation per McCoy's field notes, if any detriment resulted during the lapse of 20 years, that it should not redound to numerous settlers upon the public lands adjoining the line"; cited by Roscoe E. Bell, *loc. cit.*

1857, sent A. D. Kirk to Washington to present their case to the proper authorities. Kirk said the new line included "in the reservation some two miles of settlement and the town of Archer,"<sup>31</sup> a total of fifty to a hundred families.

Among the settlers were Philip Baedmer, William Birch, Joseph Boyd, James Calvern, I. S. Chase, Isaac Crook, Jesse Crook, Joseph Crook, T. M. Davis, A. Dickerson, E. Dickson, Isaac Fletcher, James Fletcher, Joseph Forney, Amos Frank, John Gleason, F. L. Golsberry, James Goolsby, William G. Goolsby, I. C. Hilton, William T. Holland, S. N. Johnson, Wingate King, John Kirk, W. D. Lamb, Benjamin L. Leachman, William S. Lewis, M. M. Maddox, S. C. McElroy, John McFarland, G. W. Miller, J. F. Miller, Charles Minshell, Elias Minshell, Benjamin F. Mitchell, Amos Nickolls, William Nickolls, Alfred Ovenden, Martin W. Parmer, H. W. Peters, H. Potter, W. C. Powell, Alexander Ricord, Andy J. Robertson, James M. Robertson, Charles Robinson, David Robinson, Joseph Robinson, A. M. Rutherford, William H. Seaton, Ambrose Shelley, H. B. Strong, Lewis Temple, John P. Welty, and Thomas R. Wright.

Judge John C. Miller presided over a meeting of "a large number of the citizens" at Archer. Under date of September 28, 1857, they adopted the following resolution: "We will continue to hold and to occupy our lands at all hazards, and will only be driven from them by a superior force unless our rights are investigated by the highest courts of the United States."

On November 28 the Commissioner of the General Land Office suggested to Denver the advisability of devising some plan that would relieve the settlers and be acceptable to the half-breeds. The government was responsible for the incorrect survey made by its agent, John Calvin

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<sup>31</sup> Archer, the first county seat of Richardson County, was established as a post office in 1856 and discontinued in 1865. It should not be confused with the present town of Archer in Merrick County.

McCoy. The government suffered the settlers to locate on the western side of the reservation, and to remain there after McCoy's error was discovered. To quiet disputes, Congress by an act of June 12, 1858, established the McCoy line as the true boundary.<sup>32</sup>

The line was clearly and satisfactorily ascertained, and on October 27 the Surveyor General transmitted to the General Land Office the field notes and a connected tracing of the reservation revised to reflect the McCoy survey. Owing to the encroachments of the Missouri River, the reservation for the half-breeds, exclusive of islands, then contained only 120,675.91 acres.

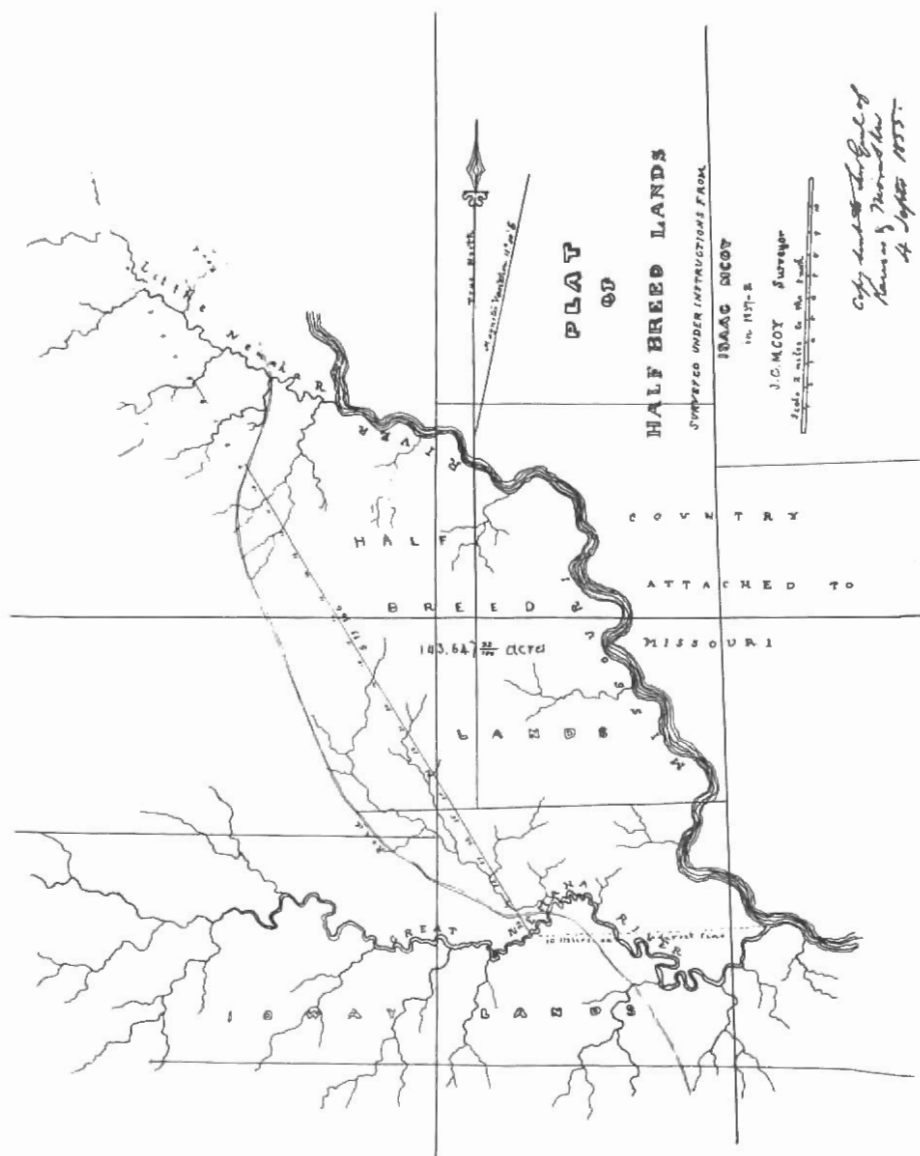
Early in 1860 there was a spirited contest between William Edward Sloan, an Omaha, and Pelagie Ritter, an Oto, for a certain allotment at the mouth of the Little Nemaha, near present McCandless Siding. On March 14 Commissioner Greenwood recommended the continued investigation of 144 cases in which persons claimed rights to reservation lands.<sup>33</sup> On the same day he noted that, in accordance with the apportionment made by his office, there had been allotted all the lands within the reduced area of the reservation occasioned by the establishment of the McCoy line, except one lot containing about 45 acres. He recommended the approval of 365 allotments he had made, the suspension of 22 allotments for further investigation, and a further study of the contested lands claimed by Sloan and Ritter.

On April 19 Greenwood instructed Christopher H. Mott and David Crawford, special commissioners, to proceed to "White Cloud, in the Territory of Nebraska" and remain there from May 15 until June 30 for the purpose of taking additional testimony in certain cases of parties who claimed

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<sup>32</sup> *U. S. Statutes at Large*, XI, 327; Royce, *Indian Land Cessions*, p. 727 and map No. 41.

<sup>33</sup> Greenwood to Secretary Jacob Thompson, March 14, 1860, Report Book (Office of Indian Affairs, National Archives), XI, 357-360.



McCoy Survey of Half-Breed Tract, 1837-1838



THE UNITED STATES OF AMERICA.

To all to whom these presents shall come, greeting:

1000000. By its 10th Article of the Treaty concluded on the 15th day of July, 1850, between the Commissioners on the part of the United States and the Deputation on the part of the Cacahitlan Priests of the Area and Plains of the United States who withdrew it assigns to many of the Half-Bloods of the Omahas, Kiows and Arapahoes and Tonkaws and Snake Bands of Kansas, and of the tract of country covered by said treaty between the Great and Little Nemaha Rivers, to be held by them or by their heirs, any portion of said tract and containing as well as the bounded and fixed areas in said individuals? And whereas by section 1 (1) of the Act of Congress approved 23d March, 1854, (10 Stat. at Large, vol. 10, page 322.) the President of the United States is "authorized and required to cause to be fulfilled the stipulations of the said treaty and Article 10 of said treaty," by granting and issuing patents to be surveyed and allotted to the persons properly entitled to the same in compliance with said treaty, and under said rules and regulations, as he may prescribe," And whereas a Return bearing date March 18th, 1860, from the Office of Indian Affairs, has been sent to the General Land Office, accompanied by "Book A," containing the description and list of land within and reservations, made for said Half-Bloods and Mixed-Bloods of the Omahas, Kiows and Arapahoes and Tonkaws and Snake Bands of Kansas, from which "Book A" it appears that on the 15th March, 1860, the Secretary of the Interior approved for

the following sections, viz:

[illegible]

This is to certify that the within enclosed are accurate in substance of the questions and answers to the questions of the above-named Party and of the said date of July 24, 1964, except where such corrections, and by these provisions the above and enclosed to be corrected, and the said Party is hereby notified.

To the Party and to the said and on behalf of the said, with the signature, under the seal of the Party, to be corrected, and the said Party is hereby notified.

**Be testimony taken?** *Z.*

Small number of  
individuals

BY THE PRESIDENT

*President of the United States, has signed these Letters as he made Patent, and the Seal of the General Land Office.*

and of the temperature of the water bath

any of the persons above

In the year of our Lord one thousand eight

end of the integration at the Victor-Step

*Alfred A. Knapp*

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BY THE PRESIDENT

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1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 26

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to be entitled to participate in the beneficial provisions of Article 10 of the treaty of July 15, 1830.<sup>34</sup> Greenwood said that upon principles of equity a full examination should be made to ascertain the number of them who would be allowed to share in the division of the proceeds of the sales of the lands embraced in "the tract containing 15,697.34 acres," excluded from the reservation by the establishment of the McCoy line. Mott and Crawford proceeded on their mission and on July 16, 1860, made a full report of their work.<sup>35</sup>

Greenwood on August 14 recommended that the suspension of the twenty-four cases designated on March 14 be set aside, and that the locations of land in these cases reported by Stark be approved and patents issued accordingly. Thus Sloan got the contested allotment, and Ritter received one farther west.<sup>36</sup> Secretary Jacob Thompson approved Greenwood's recommendation on August 17. The allotment schedule contains 60 pages, and lists 389 allotments containing on an average 314.24 acres.<sup>37</sup> It covers all

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<sup>34</sup> Greenwood to Mott and Crawford, April 19, 1860, Letter Book (Office of Indian Affairs, National Archives), LXIII 388-392.

<sup>35</sup> Mott and Crawford to Commissioner Mix, Great Nemaha M 293-1860 (Office of Indian Affairs, National Archives).

<sup>36</sup> Sloan received 299.75 acres which included the SW $\frac{1}{4}$  of the SE $\frac{1}{4}$ , SE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , and NE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Sec. 18, T. 4N., R. 16E. Ritter received the E $\frac{1}{2}$  of the Sec. 35, T. 4N., R. 15E. Reference is made to William E. Sloan in the land cases of *Thomas L. Sloan v. United States*, *Federal Reporter*, XCV (1899), 193; *Federal Reporter*, CXVIII (1902), 283; *John M. Sloan et al. v. United States*, *U. S. Supreme Court Reports*, CXCI (1904), 614.

<sup>37</sup> The schedule is in the Office of Indian Affairs, Land Division, XXXVIII A. It is a "Description of the selections and allotments of land made for the half breeds and mixed bloods of the Omahas, Iowas, and Otoes and Yanceton and Santie bands of Sioux in conformity with the stipulations of the 10th article of the treaty" of July 15, 1830, and of the 4th section of the Appropriation Act of July 31, 1854. Commissioner A. B. Greenwood transmitted the schedule to the General Land Office on March 24, 1860; Greenwood to the Commissioner of the General Land Office, March 24, 1860, Letter Book (Office of Indian Affairs, National Archives), LXIII, 172.

The following example is typical of schedule listings: Margaret Dorion, No. 57, received W $\frac{1}{2}$  of Sec. 15, T. 2 N., R. 17 E, 320 acres. The schedule is preceded by an index of allottees, four and one-half pages, a photostatic copy of which is in the Nebraska State Historical Society. Some allottees are "alias," and are listed more than once in the index.

the area listed in the connected tracing of October 27, 1858 (120,675.91 acres), together with the islands in the Missouri River (1,609.83 acres) belonging to the Nemaha Half-Breed Reservation.<sup>38</sup>

On September 10, 1860, a total of 389 patents were issued in fee simple for a total of 122,240.69 acres.<sup>39</sup> Patent Number 1 was issued to Lewis Neal, the first Indian in the United States to receive an allotment of land in severalty, evidenced by a patent. He was also known as Louis Neales and Louis Neal. His allotment comprised 307.2 acres in the southeast corner of present Nemaha County.

Fragments of information in the National Archives show that this allottee was about twenty-six years old, the son of an American father and a half-breed Omaha woman. His parents were deceased. His wife, Susan, was about twenty-three years old. He had a brother, George, and his sisters were Harriet, Elizabeth, and Mary. In 1904 "Louis Neals" was Number 1 on the annuity roll of payments to the Omaha.

On January 14, 1861, a few patents were transmitted to Representative James Craig of Missouri for delivery to allottees, and on February 16 most of the remaining patents were sent to Agent Daniel Vanderslice. For practical purposes a final certificate was considered the equal of a patent, and it was hardly deemed necessary for an allottee to receive a patent before disposing of his land. The cost to the government in surveying and allotting the reservation was \$13,480.94.<sup>40</sup>

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<sup>38</sup> Roscoe E. Bell to Assistant Attorney General, May 6, 1948, *loc. cit.*

<sup>39</sup> The patents are in Nebraska Patents, General Land Office, CCLXXXVIII.

<sup>40</sup> General Accounting Office, *Report on Otoe and Missouri Tribe*, 1950, p. 82. The annuity roll for 1862 records chiefs, warriors, heads of families, and individuals without families. It accounts for 497 persons but does not list all of them by name; see Otoe and Missouri, Annuity Roll (Office of Indian Affairs, National Archives).



It has been explained that on February 4, 1858, the Office of Indian Affairs transmitted to William M. Stark, a special agent, a list containing the names, ages, and other information concerning the persons entitled to allotments. Thereafter a situation developed which brought the list to the attention of the Supreme Court of the United States. It began on April 15, 1859, when Stark allotted a tract of land to George Washington, an Iowa half-breed. The following day the allottee conveyed the land to Houston Nuckolls. In 1866 and 1868 the allottee deeded the land to other parties who in court were known as George Faulkner *et al.*

The controlling question was whether the allottee was of full age when he deeded the land to Nuckolls. Sharp's list of February 4, 1858, showed that the allottee was 20 years old, and hence of full age when he received his land. The Supreme Court held that this list was not admissible as evidence in a legal controversy to prove the age of the allottee.<sup>41</sup> Justice George Shiras, speaking for the court, said:

When the allotment was completed, and was followed, first, by a certificate, and, finally, by a patent, the purposes of the inquiry were fulfilled, and the list used to aid the government functionaries in the task of allotting the lands cannot be regarded as a record to be resorted to afterwards, in disputes between other parties, to prove the age of the Indians. No provision was made, in either the Act of Congress or the rules and regulations of the Indian department, to preserve the list as a muniment of title, much less as a public record admissible to prove merely incidental recitals based on hearsay . . . . It was not an official record, intended as a mode of preserving the recollection of facts, nor was it based upon the personal knowledge of the party making the entry. It was mere hearsay.

Reference has been made to the west portion of the Nemaha Half-Breed Reservation or to the tract between the McCoy line and the line of 1858, which ran farther west. On the tract a total of 5,462.33 acres were located

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<sup>41</sup> *J. D. Hegler v. George Faulkner et al.*, U. S. Supreme Court Reports, CLIII (1894), 109.



prior to February 28, 1859, with military bounty land warrants, in payment of pre-emption claims based upon settlements made since June 12, 1858.<sup>42</sup> Pursuant to a proclamation of President Buchanan on March 22, 1859, a quantity of 470.45 acres of the lands was sold at the Brownsville land office, August 8 to 13, 1859.<sup>43</sup> This was the first auction of Oto and Missouri lands, and it occurred two years after the first sale of public land in Nebraska.<sup>44</sup> Commissioner Greenwood learned that only a small portion was sold "in consequence of no bids being made for the remainder."<sup>45</sup> He recommended a speedy sale of the residue of the lands within the tract in order to satisfy the claims of certain mixed-blood Indians to share in the division of the moneys arising from the sale. Secretary Caleb B. Smith considered the lands as "public land of the United States salable in the usual manner."<sup>46</sup> By June, 1861, the undisposed portion was reduced to about three thousand acres. Much of the land was sold at private sale. In brief, the tract west of the McCoy line was sold by the govern-

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<sup>42</sup> J. S. Wilson (Commissioner of General Land Office) to Secretary Caleb B. Smith, March 21, 1861, *Sen. Misc. Docs.*, 37th Cong., 2d sess. (Serial No. 1124), No. 79, pp. 41-42; W. P. Dole (Commissioner of Indian Affairs), to Smith, March 27, 1862, *ibid.*, pp. 42-43.

<sup>43</sup> A printed copy of the proclamation, No. 637, is in *Proclamations, Sales of Land from March 22, 1859 to May 11, 1869* (General Land Office, National Archives). (This is a volume in the Record Copies of Proclamations.) With the proclamation is a "Synopsis" issued by Commissioner Thomas A. Hendricks, April 28, 1859. The proclamation is not in the *United States Statutes at Large*, or in Richardson, *Messages and Papers of the Presidents*. The Record Copies of Proclamations consist of fifteen volumes, which include many executive orders. An act of March 3, 1811 made provision for patenting all lands that might be sold within the Louisiana Purchase, *U. S. Statutes at Large*, II, 665.

<sup>44</sup> Omaha Land Office, Cash Entry No. 1, dated February 4, 1857 (General Land Office, National Archives).

<sup>45</sup> Greenwood to Secretary of the Interior, January 10, 1861, Report Book (Office of Indian Affairs, National Archives), XII, 80.

<sup>46</sup> Smith to Commissioner of Indian Affairs, June 17, 1861, Record of Letters Sent (Interior Department, National Archives), III, 433-434.

ment for the benefit of the half-breeds who were paid \$19,008.13, or about \$1.25 per acre.<sup>47</sup>

Beyond the concession described in Article 10 of the treaty of 1830, the Oto half-breeds were not in any manner recognized by the tribe as having any rights whatever under the treaty or under subsequent treaties. An allottee who received a patent for a tract on the Nemaha Half-Breed Reservation thereby canceled the voluntary obligation assumed by the Oto as a tribe in behalf of their half-breeds. It was consistently held by the Interior Department that such allottees had no legal claims to enrollment for the purpose of receiving or drawing tribal annuities of any character whatever. Acting Secretary Thomas Ryan said: "Having received the benefit of the lands devoted to and set apart for their use, the obligation of their brethren and the government, being thus discharged, then ended."<sup>48</sup>

An undated list is preserved of 389 "Names of Half Breeds and Mixed Bloods to whom lands have been allotted between the Two Nemaha Rivers in Nebraska Territory."<sup>49</sup> The list gives the sex and blood of each person named and gives the ages of 375 of them. According to the list, 93 persons or 23.9 percent of the allottees were of Oto descent. Less than a third of the allottees were born when the treaty of 1830 provided lands for half-breeds. Of the allottees, 260 had not reached the age of twenty-one and only eight

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<sup>47</sup> Act of February 28, 1859, *U. S. Statutes at Large*, XI, 388, 401; Act of March 3, 1863, *ibid.*, XII, 774, 792; General Accounting Office, *op. cit.*, pp. 21-24. Pre-emptors tended to select the best lands available. In regard to their influence in postponing the time of public sale and their securing lands at the minimum price of \$1.25 an acre, see Sheldon, *Land Systems and Land Policies in Nebraska*, pp. 49-64.

<sup>48</sup> Ryan to Commissioner of Indian Affairs, September 29, 1898, Special Case 95, L 44252-1898 (Office of Indian Affairs, National Archives). In regard to Article 10 and subsequent legislation concerning the Omaha, see *John M. Sloan v. United States*, *U. S. Supreme Court Reports* (Lawyers' Edition), XLVIII (1903), 814.

<sup>49</sup> The list is in Great Nemaha, 1850-1854 (Office of Indian Affairs, National Archives), placed at the beginning of the file.

had reached or passed the age of fifty. Thus, the government began the policy of allotting lands in severalty by issuing patents in fee to half-breeds and mixed bloods, two-thirds of whom were minors. The 93 persons of Oto descent were allotted a total of 29,479.16 acres.<sup>50</sup>

There was no legal obligation for allottees to live on the lands. In estimating how long they held their allotments, a check was made of the first four names at the top of each of the five pages of the index preceding the allotment schedule.<sup>51</sup> These twenty allottees may be considered as typical of the group. Daniel Vanderslice,<sup>52</sup> Jackson Vessor,

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<sup>50</sup> Thomas H. LeDuc, Statement, *Otoe and Missouria Tribe of Indians v. United States*, Indian Claims Commission, Docket 11, Exhibit 81 (May 14, 1951), 182 pp.

LeDuc made a study of contemporary land values of tracts occupied or owned by the Oto in Iowa, Missouri, Nebraska, and Kansas. Concerning his treatment as of 1833 for the region between the Great Nemaha and the Little Nemaha, the United States Court of Claims said:

"In the instant case the surrounding lands were not open to settlement because the Government had not yet extinguished Indian title thereto. But that does not mean that such land was worth no more than the value of the subsistence it provided for the Indians. In the absence of a market at the time in question, and therefore the absence of evidence of 'market value' in the conventional sense, this court and the Commission have taken into consideration numerous other factors in determining the value of lands ceded by the Indians. The Indian appellants' expert witness, Thomas H. LeDuc, took those other factors into consideration in giving his opinion of the value of the ceded lands . . . . This method of valuation takes into consideration whatever sales of neighboring lands are of record. It considers the natural resources of the land ceded, including its climate, vegetation, including timber, game and wildlife, mineral resources and whether they are of economic value at the time of cession, or merely of potential value, water power, its then or potential use, markets and transportation—considering the ready markets at the time and the potential market."

<sup>51</sup> The deeds are recorded in the office of the Register of Deeds, Richardson and Nemaha Counties.

<sup>52</sup> Daniel Vanderslice, as recorded on the list of 389 allottees, was of Iowa extraction and was twenty-four years old.

Agent Daniel Vanderslice was "a Pennsylvanian by birth and a Kentuckian by having long made it his home." He is listed in the 1850 census as an innkeeper, age fifty-seven, who owned real estate valued at \$7,400. The census does not show family relationship, but lists the members of his family and their ages as follows: Nancy, 41; Thomas J., 22; William, 19; James I., 17; Margaret, 13; Catherine M., 11; Daniel, 5; Kentucky Census, 1850, Scott County (National Archives), p. 905; *ibid.*, 1840, No. 4, p. 51; Records of



Theresa Robidoux (or Robedoux), and Pelagie Robidoux sold their lands in 1857 at \$2.00 an acre. Amelia Rulo (Milla Rouleau) sold her land the same year at \$6.25 an acre. Ah-ha-a-me sold out in 1858 for \$2.50 an acre. In 1859 three allottees sold for \$1.25 an acre, and one received \$1.87½ an acre. By 1877 not more than two of the twenty had a shadow of claim left. Agent Albert L. Green said in 1869 that there were not more than two or three half-breeds belonging to the Oto tribe, and that on the Oto reservation was no white man who had an Indian wife.<sup>53</sup>

For three score and ten years after the Oto moved to Indian Territory in 1881, a current topic among them was how to secure adequate compensation for reservation lands they had sold in Nebraska and Kansas. Repeated efforts were made to have a day in court. In 1910 Congress passed a jurisdictional act, and in 1917 the Oto and Missouri Case came before the United States Court of Claims, but not on its merits.<sup>54</sup> The court held that under the act it did not have the right to inquire into the inequality or impropriety of treaties between the Indians and the United States and that the act did not authorize the court to relieve the Indians of the terms of the treaties.

Thirty years later the tribe was again in court, thanks to the Indian Claims Commission Act under which the test

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Veterans Administration, No. xc 890, 699. According to the census all of his children were born in Kentucky.

In 1931 there appeared a book, *Van der Slice and Allied Families*, compiled by Howard Vanderslice and Howard Norman Monnett. It contains two pictures of Agent Vanderslice, says he "probably had the most interesting history of all the Vanderslices," and that he fought in the Black Hawk War of 1832. The allotment roll was prepared a quarter of a century after the war.

The President appointed Vanderslice agent of the Great Nemaha Agency on April 18, 1853, and he was removed about March, 1861; Miscellaneous Records (Office of Indian Affairs, National Archives), VIII, 37-38; Executive Nominations (Appointments Division, Interior Department, National Archives), I, 22; *ibid.* Great Nemaha, Box 61. He died at Highland, Kansas, February 5, 1889.

<sup>53</sup> Albert L. Green, "The Otoe Indians," *Publications of the Nebraska State Historical Society*, XXI (1930), 175-209.

<sup>54</sup> *Otoe and Missouri Tribes of Indians v. United States*, Court of Claims, LII, 424. A history of the case is in Court of Claims, General Docket, XLV, 121.

of "fair and honorable dealings" could be applied, and an "unconscionable consideration" corrected.<sup>55</sup>

In a study prepared for this case Dr. Thomas H. LeDuc found that on the Nemaha Half-Breed Reservation 93,864.62 acres had been allotted to half-breeds of tribes other than those of the Oto and Missouri. He estimated that allotted lands were worth \$2.50 an acre in 1830, and that the 15,697 acres to the west were worth \$4.82 an acre in 1858. Before the Indian Claims Commission the attorneys for the Oto and Missouri contended that the tribes owed no duty to the half-breeds of the other tribes, and the federal government, as the guardian of the Oto and Missouri, owed them the duty of preventing them from disposing of their lands at the prices received.

It was contended that the Oto and Missouri should have a judgment against the government for the difference between the value of the 93,864.62 acres at the time of allotment, and the rate of 3.26 cents an acre actually received for the lands. The attorneys also requested payment for the 15,697 acres or the difference between \$1.25 per acre made by Congress, and \$4.82 per acre. They also noted that the sole purpose of the treaty was to cede the lands to the government as trustee for the purpose of having them allotted to certain half-breeds, not to white settlers; and when that purpose failed, the entire cession as to unallotted lands failed, with the result that the lands should have been either returned to the Oto and Missouri or held in trust for them. It was also observed that half-breeds of the Oto and Missouri tribe received only 23.9% of the appropriated moneys for the lands.

The Indian Claims Commission held that the Oto and Missouri made an outright cession of the reservation for the benefit of their half-breeds, and that when the half-breeds were reimbursed for the loss of their acreage for

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<sup>55</sup> *U. S. Statutes at Large*, LX, 1049.

which complaint was made, it would seem that the liability of the government for its error had been discharged.

The United States Court of Claims said that apparently the Oto and Missouri were under no misapprehensions when they requested the establishment of the reservation; that the government was under no duty to prevent them from doing what was "a sensible and generous act"; and that after the cession what happened to the lands was of no real concern to the Oto and Missouri but rather to the half-breeds. The Commission and the Court agreed that lands directly west of the Nemaha Half-Breed Reservation, ceded in 1833, were worth seventy-five cents an acre at the time of cession.

In October, 1955, the United States Supreme Court spoke words of finality: "The petition for writ of certiorari in this case is denied." The Oto received no additional compensation for the Nemaha Half-Breed Reservation. But on July 28, 1956, at the subagency at Red Rock, Oklahoma, a tribal celebration was held, attended by Governor Raymond Gary and the Congressional delegation of Oklahoma. They celebrated the tenth anniversary of the Indian Claims Commission Act, and rejoiced over the sum of \$1,179,000 awarded in the Oto and Missouri Case as compensation for other lands between the Great Nemaha and the Platte.