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and receive Government patent for said land; and that upon proof produced to the officers of the proper local land office by the widow, if unmarried, or in case of her death or marriage, then his minor orphan children or his or their legal representatives, that the applicant for patent is the widow, if unmarried, or in case of her death or marriage, his orphan children or his or their legal representatives, and that such soldier, sailor, or marine died while in the service of the United States as hereinbefore described, the patent for such land shall issue.

Approved, March 1, 1901.

March 1, 1901.

CHAP. 675.—An Act To ratify and confirm an agreement with the Cherokee tribe of Indians, and for other purposes.

Agreement of Dawes Commission with Cherokee tribe of Indians ratified.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the agreement negotiated between the Commission to the Five Civilized Tribes and the Cherokee tribe of Indians at the city of Washington on the ninth day of April, nineteen hundred, as herein amended, is hereby accepted, ratified, and confirmed, and the same shall be of full force and effect if ratified by a majority of the votes cast by the members of said tribe at an election to be held for that purpose: *Provided*, That such election shall be held within ninety days from the approval of this Act by the President of the United States.

Proviso. Ratification by Indians.

This agreement, by and between the United States, entered into in its behalf by the Commission to the Five Civilized Tribes, Henry L. Dawes, Tams Bixby, Archibald S. McKennon, and Thomas B. Needles, duly appointed and authorized thereunto, and the Cherokee tribe of Indians, in Indian Territory, entered into in behalf of said tribe by Lucian B. Bell, Percy Wyly, Jesse Cochran, and Benjamin J. Hilderbrand, duly appointed and authorized thereunto.

Witnesseth, that in consideration of the mutual undertakings herein contained it is agreed as follows:

DEFINITIONS.

Definitions.

1. The words "nation" and "tribe" shall each be deemed to refer to the Cherokee Nation or tribe of Indians in Indian Territory. The words "principal chief" shall be deemed to refer to the principal chief of said tribe. The words "citizen" or "citizens" shall be deemed to refer to a member or members of said tribe. The words "Dawes Commission" or "commission" shall be deemed to refer to the United States Commission to the Five Civilized Tribes. The word "Secretary" shall be deemed to refer to the Secretary of the Interior.

General allotment of lands.

GENERAL ALLOTMENT OF LANDS.

Appraisal.

2. All lands belonging to the Cherokee tribe of Indians in Indian Territory, except as herein reserved, shall be appraised at their true value, considering location and fertility of soil in each case, excluding improvements placed by allottee on the lands selected by him: *Provided, however*, That in cases where a citizen holding lands in excess of his rightful share has failed to sell or remove the buildings and fences from said excessive holding on or before the first day of July, nineteen hundred and one, the value of the buildings and fences shall be added to the value of the land by the appraisement committee.

Proviso. Failure to remove buildings from excessive holdings.

By whom appraisal made.

3. The appraisement shall be made under the direction of the Dawes Commission by such number of committees of appraisement as may be deemed sufficient to expedite the work, one member of each committee

to be appointed by said commission and one by the principal chief; and if the members of any committee fail to agree as to the value of any tract of land, the value thereof shall be determined by said commission.

Reports.

The committees shall make report of their work to the commission as may be required. The commission shall prepare reports of the same in duplicate, and transmit them to the Secretary of the Interior for his approval, and when approved one copy shall be furnished the principal chief and one copy returned to the office of the commission for its use in making allotments as herein provided.

Allotments.

4. All lands of said tribe, except as herein provided, shall be allotted by said commission among the citizens of the tribe entitled to share therein, so as to give to each an equal share of the whole, in value, as nearly as may be, in manner following: There shall be allotted to each citizen eighty acres of land (boundaries to conform to the Government survey as nearly as may be) which may be selected by him, so as to include improvements which belong to him. Eighty acres of land, valued at six dollars and fifty cents per acre, shall constitute a standard allotment, and shall be the measure for the equalization of values; and any allottee selecting lands of less value than such standard may select other lands, not lawfully held or occupied by any other citizen, which, at their appraised value, will make his allotment equal in value to the standard so fixed.

Eighty acres to be a standard.

Selection in excess of standard.

5. If any citizen select eighty acres of land the appraised value of which, for any reason, is in excess of such standard, the excess of value shall be charged against him in the future distribution of lands and funds of the tribe arising from any source whatsoever, unless he has already paid the same, and he shall not be entitled to any further distribution of property or funds until all other citizens shall have received lands and funds equal in value to his allotment; and if there be not sufficient property and funds of the tribe to make the allotments of all other citizens equal in value to his, then for the excess there shall exist a lien on the rents and profits of his allotment; and no deed shall issue to such allottee until all charges against an allotment are liquidated. All controversies arising between citizens as to their right to select particular tracts of land shall be determined by said commission according to law.

Controversies as to right to select land.

Selection of allotments from excessive holdings.

6. Any citizen having in his possession lands in actual cultivation in excess of eighty acres for himself and eighty acres for his wife and each of his minor children, shall, on or before the first day of July, nineteen hundred and one, select therefrom allotments of eighty acres each for himself and the members of his family aforesaid, which said allotments he may hold, and no more; and he shall, within said time, make report in writing to the Dawes Commission of the lands so selected by him, giving legal description thereof; and if he have lawful improvements upon such excess he may dispose of the same to any other citizen, who may thereupon select lands so as to include such improvements; but, after the expiration of said time, any citizen may take any lands not already selected by another; but if lands so taken be in actual cultivation, having thereon improvements belonging to another citizen, such improvements shall be valued by the appraisement committee and the amount paid to the owner thereof by the allottee, and the same shall be a lien upon the rents and profits of the land until paid: *Provided*, That the owner of improvements may remove the same if he desires.

—disposition of improvements, etc.

Equalization of allotments.

7. When allotments as hereinbefore provided have been made to all citizens the residue of lands, not herein reserved or otherwise disposed of, shall be so apportioned among such citizens as to equalize their allotments, but if the same be insufficient therefor the deficiency shall be supplied out of any funds of the tribe, so that the allotments of all

citizens may be made equal in value, as nearly as may be, in manner herein provided.

Selections above and below standard.

8. If the allotment of any citizen exceed in value that of the standard so fixed, he may pay the excess to the Indian agent, to be placed to the credit of the tribe, and shall thereupon receive title to such allotment; if a citizen select lands of the exact value of such standard allotment he shall receive title therefor; and if a citizen select lands of less value than such standard allotment he shall receive title to the lands so selected, and as soon as additional lands are selected by him for the purpose of equalizing his allotment he shall receive additional deed therefor.

Possession

9. When any citizen shall select his allotment and receive certificate therefor the Secretary of the Interior shall immediately thereupon, through the United States Indian agent in said Territory, put him in unrestricted possession of his allotment.

Allotments exempt from prior debts, etc.

10. Lands allotted to citizens hereunder shall not in any manner whatsoever, or at any time, be incumbered, taken, or sold to secure or satisfy any debt or obligation contracted or incurred prior to the date of the deed to the allottee therefor, and such lands shall not be alienable by the allottee or his heirs at any time before the expiration of five years from the ratification of this agreement, except with the approval of the Secretary of the Interior.

Homestead inalienable, etc.

11. Before receiving his deed therefor each citizen shall select from his allotment forty acres of land, and if he fail to select the same it shall be selected by the Dawes Commission, and a proper designation thereof shall be made in the deed to the allottee. Said forty acres shall not be alienable at any time before the expiration of twenty-five years from the ratification of this agreement, except with the approval of the Secretary of the Interior, and during the time the same remains so inalienable shall not be subject to any tax or be incumbered, taken, or sold to secure or satisfy any debt or obligation of the allottee contracted or incurred while the land remains so inalienable.

Minor's lands, liens against, etc.

12. No taxes assessed or levied against the lands of any minor, not herein made nontaxable, shall be a lien upon such lands, but the same shall be a lien upon the products of the lands composing his allotment.

Allotments to minors, etc.

13. Allotments to minors may be selected by the guardian, or by the father or mother, if citizens, in the order named, and shall not be sold during their minority. Allotments may be selected for prisoners, convicts, and aged and infirm persons by their duly appointed agents, and for incompetents by guardians, curators, or other suitable persons akin to them, but it shall be the duty of said commission to see that such selections are made for the best interests of such parties.

Allotments to Delawares who are Cherokee citizens, according to suit pending in Court of Claims, etc.

14. All Delaware Indians who are Cherokee citizens shall take lands and share in the funds of the tribe as their rights may be determined by the judgment of the Court of Claims, or by the Supreme Court, if appealed, in the suit instituted therein by the Delawares against the Cherokee Nation, and now pending; but if said suit be not determined before said commission is ready to begin the allotment of lands of the tribe as herein provided, the commission shall cause to be segregated one hundred and fifty-seven thousand six hundred acres of land, including lands which have been selected and occupied by Delawares in conformity to provisions of their agreement with the Cherokees dated April eighth, eighteen hundred and sixty-seven, such lands so to remain subject to disposition according to such judgment as may be rendered in said cause; and said commission shall, thereupon, proceed to the allotment of the remaining lands of the tribe as aforesaid. Said commission shall, when final judgment is rendered, allot lands to such Delawares in conformity to the terms of the judgment and their individual rights thereunder.

Nothing in this agreement shall in any manner impair the rights of either party to said contract as the same may be finally determined by the court, or shall interfere with the holdings of the Delawares under their contract with the Cherokees of April eighth, eighteen hundred and sixty-seven, until their rights under said contract are determined by the courts in their suit now pending against the Cherokees.

Existing rights unimpaired.

TOWN SITES.

Town sites.

15. All towns in the Cherokee Nation having a present population of two hundred or more shall be surveyed, laid out, and appraised under the provisions of an Act of Congress entitled "An Act making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, nineteen hundred and one, and for other purposes," approved May thirty-first, nineteen hundred, which said provisions are as follows: "That the Secretary of the Interior is hereby authorized, under rules and regulations to be prescribed by him, to survey, lay out, and plat into town lots, streets, alleys, and parks, the sites of such towns and villages in the Choctaw, Chickasaw, Creek, and Cherokee nations, as may at that time have a population of two hundred or more, in such manner as will best subserve the then present needs and the reasonable prospective growth of such towns. The work of surveying, laying out, and platting such town sites shall be done by competent surveyors, who shall prepare five copies of the plat of each town site which, when the survey is approved by the Secretary of the Interior, shall be filed as follows: One in the office of the Commissioner of Indian Affairs, one with the principal chief of the nation, one with the clerk of the court within the territorial jurisdiction of which the town is located, one with the Commission to the Five Civilized Tribes, and one with the town authorities, if there be such. Where in his judgment the best interests of the public service require, the Secretary of the Interior may secure the surveying, laying out, and platting of town sites in any of said nations by contract.

Provisions for surveys, plats, etc.

Ante, p. 237.

Filing plats.

"Hereafter the work of the respective town-site commissions provided for in the agreement with the Choctaw and Chickasaw tribes ratified in section twenty-nine of the Act of June twenty-eighth, eighteen hundred and ninety-eight, entitled 'An Act for the protection of the people of the Indian Territory, and for other purposes,' shall begin as to any town site immediately upon the approval of the survey by the Secretary of the Interior and not before.

Choctaw and Chickasaw tribes.

Vol. 30, p. 505.

Work of commissions to begin on approval of survey.

"The Secretary of the Interior may in his discretion appoint a town-site commission consisting of three members for each of the Creek and Cherokee nations, at least one of whom shall be a citizen of the tribe and shall be appointed upon the nomination of the principal chief of the tribe. Each commission, under the supervision of the Secretary of the Interior, shall appraise and sell for the benefit of the tribe the town lots in the nation for which it is appointed, acting in conformity with the provisions of any then existing Act of Congress or agreement with the tribe approved by Congress. The agreement of any two members of the commission as to the true value of any lot shall constitute a determination thereof, subject to the approval of the Secretary of the Interior, and if no two members are able to agree the matter shall be determined by such Secretary.

Creek and Cherokee town-site commissions.

"Where in his judgment the public interests will be thereby subserved, the Secretary of the Interior may appoint in the Choctaw, Chickasaw, Creek, or Cherokee Nation a separate town-site commission for any town, in which event as to that town such local commission may exercise the same authority and perform the same duties

Choctaw, Chickasaw, Creek, and Cherokee nations.

Separate town-site commissions for towns.

which would otherwise devolve upon the commission for that Nation. Every such local commission shall be appointed in the manner provided in the Act approved June twenty-eighth, eighteen hundred and ninety-eight, entitled 'An Act for the protection of the people of the Indian Territory.'

Appointment. Vol. 30, p. 500.

Surveys by towns.

"The Secretary of the Interior, where in his judgment the public interests will be thereby subserved, may permit the authorities of any town in any of said nations, at the expense of the town, to survey, lay out, and plat the site thereof, subject to his supervision and approval, as in other instances.

Appraisal and sale of lots.

"As soon as the plat of any town site is approved, the proper commission shall, with all reasonable dispatch and within a limited time, to be prescribed by the Secretary of the Interior, proceed to make the appraisement of the lots and improvements, if any, thereon, and after the approval thereof by the Secretary of the Interior, shall, under the supervision of such Secretary, proceed to the disposition and sale of the lots in conformity with any then existing Act of Congress or agreement with the tribe approved by Congress, and if the proper commission shall not complete such appraisement and sale within the time limited by the Secretary of the Interior, they shall receive no pay for such additional time as may be taken by them, unless the Secretary of the Interior for good cause shown shall expressly direct otherwise.

Removal of commissioners, etc.

"The Secretary of the Interior may, for good cause, remove any member of any townsite commission, tribal or local, in any of said nations, and may fill the vacancy thereby made or any vacancy otherwise occurring in like manner as the place was originally filled.

Establishment of corporate and townsite limits.

"It shall not be required that the townsite limits established in the course of the platting and disposing of town lots and the corporate limits of the town, if incorporated, shall be identical or coextensive, but such townsite limits and corporate limits shall be so established as to best subserve the then present needs and the reasonable prospective growth of the town, as the same shall appear at the times when such limits are respectively established: *Provided further*, That the exterior limits of all townsites shall be designated and fixed at the earliest practicable time under rules and regulations prescribed by the Secretary of the Interior.

Proviso. —regulations.

Reservation from allotment at railroad stations.

"Upon the recommendation of the Commission to the Five Civilized Tribes the Secretary of the Interior is hereby authorized at any time before allotment to set aside and reserve from allotment any lands in the Choctaw, Chickasaw, Creek, or Cherokee nations, not exceeding one hundred and sixty acres in any one tract, at such stations as are or shall be established in conformity with law on the line of any railroad which shall be constructed or be in process of construction in or through either of said nations prior to the allotment of the lands therein, and this irrespective of the population of such townsite at the time. Such townsites shall be surveyed, laid out, and platted, and the lands therein disposed of for the benefit of the tribe in the manner herein prescribed for other townsites: *Provided further*, That whenever any tract of land shall be set aside as herein provided which is occupied by a member of the tribe, such occupant shall be fully compensated for his improvements thereon under such rules and regulations as may be prescribed by the Secretary of the Interior. *Provided*, That hereafter the Secretary of the Interior may, whenever the chief executive or principal chief of said nation fails or refuses to appoint a townsite commissioner for any town or to fill any vacancy caused by the neglect or refusal of the townsite commissioner appointed by the chief executive or principal chief of said nation to qualify or act, in his discretion appoint a commissioner to fill the vacancy thus created."

Provisos. Compensation for occupant's improvements.

Secretary of Interior may appoint townsite commissioner on failure of chief of nation, etc.

Right to purchase where right of occupancy acquired under tribal laws, etc.

16. Any citizen in rightful possession of any town lot which has been improved as required by tribal laws, the right of occupancy of which he has acquired under tribal laws, shall have the right to purchase same by paying one-half the appraised value thereof, deducting therefrom such amount as may have been paid into the Cherokee national treasury for such right of occupancy.

17. Any citizen in rightful possession of any town lot having improvements thereon other than temporary buildings, fencing, and tillage, the occupancy of which has not been acquired under tribal laws, shall have the right to purchase such lot by paying one-half the appraised value thereof: *Provided*, That any other person in the peaceful possession of any town lot having improvements thereon other than temporary buildings, fencing, and tillage, the occupancy of which has not been acquired under tribal laws, shall have the right to purchase such lot by paying one-half the appraised value thereof.

18. Any citizen in rightful possession of any town lot not having improvements thereon, the occupancy of which has been acquired under tribal laws, shall have the right to purchase such lot by paying two-thirds the appraised value thereof, deducting therefrom such amounts as may have been paid into the Cherokee national treasury for such right of occupancy.

Appraisal and payment.

19. When the appraisement of any town lot so improved is made and approved the commission shall notify the claimant thereof of the amount of appraisement, and he shall, within sixty days thereafter, make payment of ten per centum of the amount due for the lot, and four months thereafter he shall pay fifteen per centum additional, and the remainder of the purchase money he shall pay in three equal annual installments without interest; but if the owner of any such lot fail to purchase same —failure to pay. and make the first and second payments aforesaid within the time aforesaid, the lot and improvements shall be sold at public auction to the highest bidder, under the direction of the town-site commission, at a price not less than their appraised value; and the purchaser shall pay the purchase price to the owner of the improvements, less the appraised value of the lot.

Sale of unspecified, unimproved lots.

20. All town lots not having thereon improvements other than temporary buildings, fencing, and tillage, the sale or disposition of which is not herein otherwise specifically provided for, shall be sold within twelve months after appraisement, under direction of the Secretary of the Interior, after due advertisement, at public auction, to the highest bidder, at not less than their appraised value.

Selection of lots in lieu of standard allotment.

21. Any citizen occupying more than four acres of unplatted lands, which may be laid out in town lots in any town, and which are to be sold at public auction as above, shall have the right to select, in a body, and retain a sufficient number of such lots at their appraised value as may be equal to the standard allotment herein fixed, to be taken in lieu of his allotment, and in addition thereto he may purchase one-fourth of the remaining lots, to be selected in a body, into which such land has been divided, by paying two-thirds of their appraised value.

Deduction for lands used as a home.

22. If any citizen have lands in any town, occupied and used by him as a home, he may purchase the lots into which such lands may be platted by paying one-half their appraised value, not, however, exceeding four acres; but this right shall not extend to persons who take their allotments out of unplatted lands as herein provided.

Payment of purchase money.

23. The purchaser of any unimproved town lot sold at public auction shall pay twenty-five per centum of the purchase money at the time of the sale, and within four months thereafter he shall pay twenty-five per centum additional, and the remainder of the purchase money he shall pay in two equal annual installments, without interest.

Default in payment.

24. If the purchaser of any town lot fail to make payment of any

sum when due, the same shall thereafter bear six per centum interest per annum until paid.

Title on immediate payment.

25. The purchaser of any town lot may at any time pay the full amount of purchase money, and he shall thereupon receive title therefor.

Church lands.

26. All town lots or parts of lots, not exceeding fifty by one hundred and fifty feet in size, upon which church houses and parsonages have been erected, and which are occupied as such at the time of appraisement, shall be conveyed gratuitously to the churches to which such improvements belong, and if such churches have inclosed other adjoining lots actually necessary for their use, they may purchase the same by paying one-half the appraised value thereof.

Lots exempt from debt prior to deed, etc.

27. All town lots purchased by citizens under provisions of this agreement shall be free from incumbrance by any debt contracted prior to the date of the deed therefor, except for improvements thereon, or for money borrowed to pay the purchase price to the nation.

Purchase of unimproved residence lot, etc.

28. Any citizen having the right of occupancy of an unimproved residence lot in any town at the date of this agreement, and owning no other lot or land therein, shall have the right to purchase such lot by paying one-half of the appraised value thereof.

Anyone may bid.

29. Any person whomsoever may bid for and purchase any lot sold at public auction as herein provided.

Assessment of taxes, etc.

30. No taxes shall be assessed by any town government against any town lot remaining unsold, but taxes may be assessed against any town lot sold as herein provided, and the same shall constitute a lien upon the interest of the purchaser therein after any payment thereon has been made by him, and if forfeiture of any lot be made all taxes assessed against such lot shall be paid out of any money paid thereon by the purchaser.

Cemetery.

31. The town authorities may select and locate, subject to the approval of the Secretary of the Interior, a cemetery within suitable distance from each town, to embrace such number of acres as may be deemed necessary for such purpose, and the town-site commission shall appraise the same at its true value, and the town may purchase same by paying such value; and if any citizen have improvements thereon, other than fencing and tillage, they shall be appraised by said committee and paid for by the town. The town authorities shall dispose of the lots in such cemetery at reasonable prices, in suitable sizes for burial purposes, and the proceeds thereof shall be applied to the general improvement of the property: *Provided*, That lands already laid out for cemeteries by the tribal authorities shall be included in the cemeteries herein provided for, without cost to the towns; and the holdings of burial lots therein now occupied for such purposes shall in no wise be disturbed.

Proviso.
Inclusion of existing cemeteries.

Surveys of plats in existing towns.

32. All towns now in existence where there are two or more places of business and less than two hundred inhabitants may be surveyed and laid out into town lots and necessary streets and alleys and platted as other towns, each to embrace such amount of land as may be deemed necessary, not exceeding forty acres, which survey may be made in manner provided for other towns, and the appraisement of the town lots of said towns may be made by any commission appointed for either of the other towns having two hundred inhabitants or more; and all lots in said towns having thereon improvements other than temporary buildings, fencing, and tillage may be purchased by any person having rightful possession thereof and owning the improvements thereon by paying one-half the appraised value. The survey, appraisement, and sale of lots shall be made under regulations to be prescribed by the Secretary of the Interior.

—regulations.

Public buildings.

33. The United States may purchase in any town in the Cherokee Nation suitable lands for court-houses, jails, and other necessary public

buildings, for its use, by paying the appraised value thereof, the same to be selected under the direction of the Department for whose use such buildings are to be erected, and if any person have improvements thereon, other than temporary buildings, fencing, and tillage, the same shall be appraised and paid for by the United States.

TITLES. Titles.

Deeds for allotments.

34. After the ratification of this agreement by Congress and the tribe the Secretary of the Interior shall furnish the principal chief with blank deeds necessary for all conveyances herein provided for, and when any citizen receives his allotment of land amounting to and not exceeding in value the standard allotment herein fixed, or when any allotment has been so ascertained and fixed that title should, under the provisions of this agreement, be conveyed, the principal chief shall thereupon proceed to execute in due form and deliver to him a deed conveying to him all the right, title, and interest of the Cherokee Nation, and of all other citizens, in and to the lands embraced in his allotment certificate.

35. The principal chief shall, in like manner and with like effect, execute and deliver to proper parties deeds of conveyance in all other cases herein provided for. All lands and town lots to be conveyed to one person shall, as far as practicable, be included in one deed, and all deeds shall be executed free of charge.

Approval of deed; effect.

36. All conveyances shall be approved by the Secretary of the Interior, which shall serve as a relinquishment to the grantee of all the right, title, and interest of the United States in and to the lands embraced in his deed.

Acceptance of deed; effect.

37. Any allottee accepting such deed shall be deemed to assent to the allotment and conveyance of all the lands of the tribe as provided herein, and as a relinquishment of all his right, title, and interest in and to the same, except in the proceeds of lands reserved from allotment.

—for minors, etc.

38. The acceptance of deeds of minors and incompetents by persons authorized to select their allotments for them shall be deemed sufficient to bind such minors and incompetents as to the conveyance of all other lands of the tribe as provided herein.

Filing deeds, etc.

39. All deeds, when so executed and approved, shall be filed in the office of the Dawes Commission and recorded in a book appropriate for the purpose without expense to the grantee, and such records shall have like effect as other public records.

ROLLS OF MEMBERSHIP. Rolls of membership. Date.

40. The rolls of citizenship of the Cherokee Nation shall be made as of April first, nineteen hundred, and the names of all persons then living and entitled to enrollment on that date shall be placed on said rolls by the Dawes Commission.

Who excluded.

41. No child born to any citizen after the first day of April, nineteen hundred, nor any white person who has intermarried with a Cherokee citizen since the sixteenth day of December, eighteen hundred and ninety-five, shall be entitled to enrollment.

Provisions. Vol. 30, p. 502.

42. Such rolls shall in all other respects be made in strict compliance with the provisions of section twenty-one of the Act of Congress of June twenty-eighth, eighteen hundred and ninety-eight, entitled "An Act for the protection of the people of the Indian Territory, and for other purposes."

Death before allotment.

43. If any citizen who was living and entitled to be enrolled on the first day of April, nineteen hundred, die before receiving his allotment of lands and share of the tribal funds, his right of allotment and share of the funds shall descend to his heirs according to the laws of

descent and distribution of the Cherokee Nation, and shall be allotted and distributed to them accordingly.

Citizens enrolled as of other tribes barred.

44. No person who has been enrolled by the Dawes Commission as a citizen of any other tribe shall be enrolled as a citizen of the Cherokee Nation.

To be final rolls.

45. The rolls made by said commission, when approved by the Secretary of the Interior, shall be the final rolls of membership of said tribe upon which the allotment of all lands and the distribution of all moneys and other property of the tribe shall be made.

SCHOOLS.

Schools. Rules, etc.

46. The Cherokee school fund shall be used, under direction of the Secretary of the Interior, for the education of children of Cherokee citizens, and the Cherokee schools shall be conducted under rules prescribed by him according to Cherokee laws, subject to such modifications as he may deem necessary to make the schools most effective and to produce the best possible results, said schools to be under the direct supervision of a supervisor appointed by the Secretary and a school superintendent appointed by the principal chief.

Supervision.

Qualifications of teachers.

47. All teachers shall be examined by or under direction of said supervisor and said superintendent, and competent teachers and other persons to be engaged in and about the schools, with good moral character only, shall be employed; but where all qualifications are equal, preference shall be given to citizens in such employment.

Payment of expenses.

48. All moneys for running the schools shall be appropriated by the Cherokee national council, not exceeding the amount of the Cherokee school fund, but if said council fail or refuse to make the necessary appropriations, the Secretary of the Interior may direct the use of sufficient amount of the school funds to pay all expenses necessary to the efficient conduct of the schools, strict account thereof to be rendered to him and to the principal chief.

Accounts.

49. All accounts for expenditures in running the schools shall be examined and approved by said supervisor and superintendent, and also by the general superintendent of Indian schools in Indian Territory before payment thereof is made.

Appeal to Secretary of the Interior.

50. If the supervisor and superintendent fail to agree upon any matter under their direction and control, it shall be decided by said general superintendent, subject to appeal to the Secretary of the Interior, but his decision shall govern until reversed by the Secretary.

Equal benefits from school funds.

51. Said school fund shall be administered so that each Cherokee citizen of school age entitled thereto shall have equal benefits therefrom, as nearly as may be.

Cherokee Orphan Asylum.

52. The interest arising from the Cherokee orphan fund shall in like manner be used, under direction of the Secretary of the Interior, for maintaining the Cherokee Orphan Asylum for the benefit of the Cherokee orphan children. The buildings of said asylum, and one hundred and twenty acres of land, to be taken in a body, on which they are located, subject to the approval of the Secretary of the Interior, shall be reserved from allotment, and said institution continued in operation until allotment is completed.

Cherokee Advocate.

CHEROKEE ADVOCATE.

Publication of, etc.

53. The national newspaper, the Cherokee Advocate, printed in both the Cherokee and English languages, shall continue to be published the present year under the appropriation already made by the Cherokee Nation, after which time the same shall be leased by the principal chief of the Cherokee Nation for a period of two years at a time, to the lowest responsible citizen bidder, at an annual expense to the Cherokee Nation of not to exceed one thousand five hundred dollars, to

Lease.

be paid out of the general fund of the Cherokee Nation: *Provided*, That said newspaper plant, including everything connected therewith, together with the buildings and grounds reserved for said newspaper, shall be sold before final allotment is completed under this agreement, under the direction of the Secretary of the Interior, and the proceeds placed to the credit of the general fund of the Cherokee Nation.

Proviso.
Sale of plant.

RESERVATIONS.

Reservations from allotment.

54. The following lands shall be reserved from the general allotment herein provided:

(a) All lands set apart for town sites.

(b) All lands to which, at the date of the ratification of this agreement, any railroad company may, under any treaty or Act of Congress, have a vested right for right of way, depots, station grounds, water stations, stock yards, or similar uses connected with the maintenance and operation of the railroad.

(c) All lands selected for town cemeteries, as herein provided.

(d) One acre of land for each schoolhouse not included in town sites, as herein provided.

(e) One hundred and sixty acres for Willie Halsell College at Vinita.

(f) Four acres for the Baptist Mission School at Tahlequah.

(g) Four acres for the Presbyterian School at Tahlequah.

(h) Four acres for the Park Hill Mission School south of Tahlequah.

(i) Four acres for the Elm Springs Mission School on Barren Fork.

(j) Forty acres for Dwight Mission on Sallisaw.

(k) Four acres for Skiatook Mission near Skiatook.

(l) Four acres for Lutheran Mission School on Illinois River, north of Tahlequah.

(m) Sufficient ground for burial purposes where neighborhood cemeteries are now located, not to exceed three acres each.

(n) One acre for each church house outside of towns.

(o) The square now occupied by the capitol building at Tahlequah.

(p) The grounds now occupied by the national jail at Tahlequah.

(q) The grounds now occupied by the Cherokee Advocate printing office at Tahlequah.

(r) Forty acres for the Cherokee Male Seminary near Tahlequah.

(s) Forty acres for the Cherokee Female Seminary at Tahlequah.

(t) One hundred and twenty acres for the Cherokee Orphan Asylum on Grand River.

(u) Forty acres for the Colored High School in Tahlequah district.

(v) Forty acres for the Cherokee Insane Asylum.

(w) Forty acres for the school for the blind, and deaf and dumb children near Fort Gibson.

Army post, etc.

(x) A sufficient amount of land, to be selected by the General Government, and heretofore included in the old military reservation, for an army post, and for a penitentiary, or for either, and the same, with the buildings thereon, is tendered to the United States for said purposes: *Provided*, That in case the same is not accepted and occupied by the Government for the purposes aforesaid on or before March fourth, nineteen hundred and three, this provision shall be void.

Proviso.
—condition.

MUNICIPAL CORPORATIONS.

Municipal corporations.

Powers, etc.

55. Authority is hereby conferred upon municipal corporations in the Cherokee Nation to issue bonds and borrow money thereon for sanitary purposes, and for the construction of sewers, lighting plants, waterworks, and schoolhouses, subject to all the provisions of laws of the United States in force in the organized Territories of the United States in reference to municipal indebtedness and issuance of bonds for public purposes; and said provisions of law are hereby put in force in

Bond issues.

said nation and made applicable to the cities and towns therein, the same as if specially enacted in reference thereto: *Provided*, That the whole amount of bonds issued under this provision shall not exceed five per cent of the value of all the real and personal property in the town; and the town authorities may cause such bonds to be issued for the purpose of carrying out this provision, and no bonds shall be issued without the approval of the Secretary of the Interior.

Proviso. —limit.

Public buildings.

PUBLIC BUILDINGS.

School lands reserved.

56. The buildings of the Cherokee Male Seminary, with forty acres of land; and of the Cherokee Female Seminary, with forty acres of land; and the Cherokee Orphan Asylum, with one hundred and twenty acres of land; and the Colored High School, with forty acres of land, such lands in each case to be in one body, embracing lands upon which the buildings are located, and to be selected by the Dawes Commission, shall, before completion of allotment, be set aside for school purposes until final allotment, when the same shall be subject to the provisions of section sixty.

Other lands, etc., may be sold.

57. All other public buildings and other public property of whatsoever character belonging to the Cherokees not herein otherwise disposed of may be sold or otherwise disposed of by the nation, subject to the approval of the Secretary of the Interior.

Miscellaneous.

MISCELLANEOUS.

Duration of tribal government.

58. The tribal government of the Cherokee Nation shall not continue longer than March fourth, nineteen hundred and six, subject to such future legislation as Congress may deem proper.

Officer to collect revenue.

59. The collection of all revenues of whatsoever character belonging to the tribe shall be made by an officer appointed by the Secretary of the Interior, under rules and regulations prescribed by the Secretary, and the expenses of such collection shall be deducted from the funds collected.

Consent of tribe to disbursements necessary.

60. No funds belonging to said tribe shall be used or paid out for any purposes by any officer of the United States without consent of the tribe expressly given through its national council, except as herein provided.

Additional power to Secretary of the Interior

61. All things necessary to carry into effect the provisions of this agreement not otherwise herein specifically provided for shall be done under the authority and direction of the Secretery of the Interior.

No permit tax from noncitizens.

62. No noncitizen renting lands from a citizen for agricultural purposes, as provided by law, whether such lands have been selected as an allotment or not, shall be required to pay any permit tax.

Federal citizenship conferred on Cherokees.

63. Each Cherokee citizen shall, on the date of the ratification of this agreement, become a citizen of the United States and be entitled to all the rights and privileges thereof, but the same shall in no wise affect his rights as a member of said tribe.

Railroads not to acquire rights to lands under transfer of title to allottees, etc.

64. The transfer of the title of the Cherokee tribe to individual allottees and to other persons, as provided in this agreement, shall not inure to the benefit of any railroad company, nor vest in any railroad company any right, title, or interest in or to any of the lands in the Cherokee Nation.

Expenses of surveys, etc.

65. The United States shall pay all expenses incident to the survey, platting, and disposition of town lots and all allotments of lands made under the provisions of this agreement, except where the town authorities may have been or may be duly authorized to survey and plat their respective towns at the expense of such towns, except when towns are authorized to survey at their own expense.

Payments to be made into the Treasury to credit of tribe, etc.

66. All moneys to be paid to the tribe under any of the provisions of this agreement shall be paid under the direction of the Secretary of the Interior into the Treasury of the United States to the credit of the

tribe, and an itemized report thereof shall be made to the Secretary of the Interior and to the principal chief.

Secretary of the Interior to make payments for tribe, etc.

67. All funds of the tribe and all moneys accruing under the provisions of this agreement, when needed for the purpose of equalizing allotments, or for any other purpose herein prescribed, shall be paid out under the direction of the Secretary of the Interior, and when required for per capita payments, if any, shall be paid out directly to each individual by a bonded officer of the United States, under the direction of the Secretary of the Interior, without unnecessary delay; and moneys paid to citizens shall not be liable for the payment of any previously contracted obligation.

Methodist Episcopal Church South may acquire certain land.

68. The Methodist Episcopal Church South may, within twelve months after the ratification of this agreement, pay five dollars per acre for the one hundred and sixty acres of land adjacent to the town of Vinita, and heretofore set apart by act of the Cherokee national council for the use of said church for missionary and educational purposes, and now occupied by Willie Halsell College (formerly Galloway College), and shall thereupon receive title thereto; but if said church fail so to do, it may continue to occupy said one hundred and sixty acres of land as long as it uses same for the purposes aforesaid.

Lease of allotments permitted, etc.

69. Cherokee citizens may rent their allotments, when selected, for a term not exceeding one year, and after receiving title to their allotments may rent them without restriction; and cattle grazed on such allotments shall not be liable to any tribal tax. No cattle shall hereafter be introduced into the Cherokee Nation and grazed on lands not selected by citizens as allotments unless permission therefor has been granted by the principal chief and approved by the Secretary of the Interior, in which case the Secretary is authorized to collect from the owners of such cattle a reasonable grazing tax for the benefit of the tribe. Section twenty-one hundred and seventeen, Revised Statutes of the United States, shall not hereafter apply to Cherokee lands.

Grazing of cattle.

Penalty for driving stock to feed on Indian lands.

R. S., sec. 2117, p. 370, amended.

Deferred payments a lien on property.

70. All deferred payments under the provisions of this agreement shall constitute a lien in favor of the tribe on the property for which the debt was contracted, and if default in any annual payment is made the lien for the payment of all purchase money remaining unpaid may thereupon be enforced in the United States court in the same manner as vendors' liens are enforced, suit therefor to be brought in the name of the principal chief for the benefit of the tribe, or, on his failure for any cause, in the name of some person appointed therefor by the court.

—enforcement of lien.

All other liens herein created may be in like manner enforced after the expiration of two years from the date when the amount secured thereby becomes a charge upon the property.

Mineral leases.

Vol. 30, pp. 498, 499, 504.

71. The provisions of section thirteen of the Act of Congress approved June twenty-eighth, eighteen hundred and ninety-eight, entitled "An Act for the protection of the people of the Indian Territory, and for other purposes," shall not apply to or in any manner affect the lands or other property of said tribe, and no Act of Congress or treaty provision inconsistent with this agreement shall be in force in said nation except sections fourteen and twenty-seven of said last-mentioned Act, which shall continue in force as if this agreement had not been made.

Cherokee courts abolished.

72. Nothing contained in this agreement, however, shall be construed to revive or reestablish the Cherokee courts abolished by said last-mentioned Act of Congress, or the authority of any officer, at any time, in any manner connected with said courts.

Existing tribal indebtedness to be paid.

73. The Secretary of the Interior shall cause to be paid all just indebtedness of said tribe existing at the date of ratification of this agreement which may have lawfully been contracted and warrants therefor regularly issued upon the several funds of the tribe, as also warrants drawn by authority of law after the ratification of this

agreement and prior to the dissolution of the tribal government, such payment to be made from any funds in the United States Treasury belonging to said tribe. And all such indebtedness of the tribe shall be paid in full before any pro rata distribution of the funds of the tribe shall be made.

—regulations, etc.

The Secretary of the Interior shall make such payments at the earliest time practicable, and he shall make all needful rules and regulations to carry this provision into effect.

Instruments affecting land east of Grant River, etc.

74. All instruments of writing affecting lands in the Cherokee Nation which lie south of Spavinaw Creek, east of Grand River, and north of the Arkansas River, and all other instruments affecting property within said boundaries, required by law to be recorded, shall be recorded in

—where recorded.

—land north of Arkansas River, etc., where recorded.

—exception.

the office of the clerk of the United States court at Tahlequah; and all instruments of writing affecting lands in said nation lying north of the Arkansas River, north of Spavinaw Creek, and west of Grand River, and all other instruments affecting property within said boundaries, required by law to be recorded, shall be recorded in the office of the clerk of the United States court at Vinita: *Provided*, That this shall not include the record of original deeds to allotments and other parcels of lands, and of town lots, herein otherwise provided for.

Tribal ordinance affecting land, etc.

75. No act, ordinance, or resolution of the Cherokee national council in any manner affecting the lands of the tribe, or of individuals after allotment, or the moneys or other property of the tribe, or of the citizens thereof, except appropriations for the necessary incidental and salaried expenses of the Cherokee government as herein limited, shall be of any validity until approved by the President of the United States.

Approval, etc., by President.

When any such act, ordinance, or resolution shall be passed by said council and approved by the principal chief, a true and correct copy thereof, duly certified, shall be immediately transmitted to the President, who shall, within thirty days after its receipt, approve or disapprove the same. If disapproved, it shall be so indorsed and returned to the principal chief. If approved, the approval thereof shall be indorsed thereon, and it shall be published in at least two newspapers having a bona fide circulation in the Cherokee Nation.

Reversion of land reserved from allotment.

76. All lands herein reserved from allotment and not sold, as provided in this agreement, when they cease to be used for the purpose for which they have been set apart, shall, if that occur prior to the completion of the allotment of lands, or to the dissolution of the tribal

—sale, etc.

government, revert to the tribe, and be sold under direction of the Secretary of the Interior, and the proceeds paid into the United States Treasury and become a part of the general fund of the tribe; but if said lands revert after allotment has been completed, and after dissolution of the tribal government, the same may be in like manner sold, and the proceeds thereof used by the United States for the support of

—church and school lands outside of towns.

the insane asylum herein provided for: *Provided*, That the lots of land upon which the church houses and schoolhouses outside of towns are located, with the improvements thereon, when they cease to be used for the purposes for which they are herein reserved, shall go to the allottees taking the forty-acre tracts from which said reservations were taken.

Court of Claims given jurisdiction of claims of Cherokees against the United States, etc.

77. Jurisdiction is hereby conferred upon the Court of Claims to examine, consider, and adjudicate, with a right of appeal to the Supreme Court of the United States by any party in interest feeling aggrieved at the decision of the Court of Claims, any claim which the Cherokee tribe, or any band thereof, arising under treaty stipulations, may have against the United States, upon which suit shall be instituted within two years after the ratification of this agreement; and also to examine, consider, and adjudicate any claim which the United

Attorneys.

States may have against said tribe, or any band thereof. The institu-

tion, prosecution, or defense, as the case may be, on the part of the tribe, or any band thereof, of any such suit shall be through attorneys employed, and to be compensated in the manner prescribed in sections twenty-one hundred and three to twenty-one hundred and six, both inclusive, of the Revised Statutes of the United States, the tribe acting through its principal chief in the employment of such attorneys, and a band acting through a committee recognized by the Secretary of the Interior. The Court of Claims shall have full authority by proper orders and process to make parties to any such suit all persons whose presence in the litigation may be deemed necessary or proper to the final determination of the matter in controversy; and any such suit shall, on motion of either party, be advanced on the docket of either of said courts, and determined at the earliest practicable time.

—compensation. R. S., secs. 2103, etc., p. 367.

Making parties.

Case may be advanced.

78. That in the suit pending between the Delaware Indians and the Cherokee Nation in the Court of Claims said court is hereby authorized to fix the compensation of the attorneys of record of the respective litigants, and the same shall be paid to the attorneys representing the Cherokees out of the general fund of the Cherokee Nation and to the attorneys representing the Delawares out of any money belonging to said Delaware Indians; but in no event shall the fees allowed by said court exceed the amounts specified in the contracts with said tribes.

Pending suit of Delaware Indians and Cherokee Nation, Court of Claims.

Payment to attorneys authorized.

79. That nothing in this Act contained shall be held or construed to change, alter, modify or impair any existing coal or oil rights heretofore acquired by lease, location, development, or otherwise, or to ratify, confirm, recognize, or validate any such rights.

Existing coal or oil rights unaffected.

80. This agreement shall be binding upon the United States and on the Cherokee Nation and all Cherokee citizens when ratified by Congress and by a majority of the whole number of votes cast by the legal voters of the Cherokee Nation in the manner following: The principal chief shall, within twenty days after the approval of this Act, make public proclamation that the same shall be voted upon at a special election to be held for that purpose within sixty days thereafter, on a certain day therein named, and he shall appoint such officers and make such other provisions as may be necessary for holding such election. The votes cast at such election shall be forthwith duly certified as required by Cherokee law, and the votes shall be counted by the Cherokee national council in the presence of the Dawes Commission and the principal chief, and said commission and principal chief shall jointly make certificate thereof and proclamation of the result.

Ratification of agreement.

—election.

Approved, March 1, 1901.

CHAP. 676.—An Act To ratify and confirm an agreement with the Muscogee or Creek tribe of Indians, and for other purposes.

March 1, 1901.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the agreement negotiated between the Commission to the Five Civilized Tribes and the Muscogee or Creek tribe of Indians at the city of Washington on the eighth day of March, nineteen hundred, as herein amended, is hereby accepted, ratified, and confirmed, and the same shall be of full force and effect when ratified by the Creek national council. The principal chief, as soon as practicable after the ratification of this agreement by Congress, shall call an extra session of the Creek national council and lay before it this agreement and the Act of Congress ratifying it, and if the agreement be ratified by said council, as provided in the constitution of said nation, he shall transmit to the President of the United States the act of council ratifying the agreement, and the President of

Agreement of Dawes Commission with Muscogee or Creek tribe of Indians ratified.

Ratification by Indians.