

#### Kansas historical quarterly

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# KANSAS HISTORICAL SOCIETY





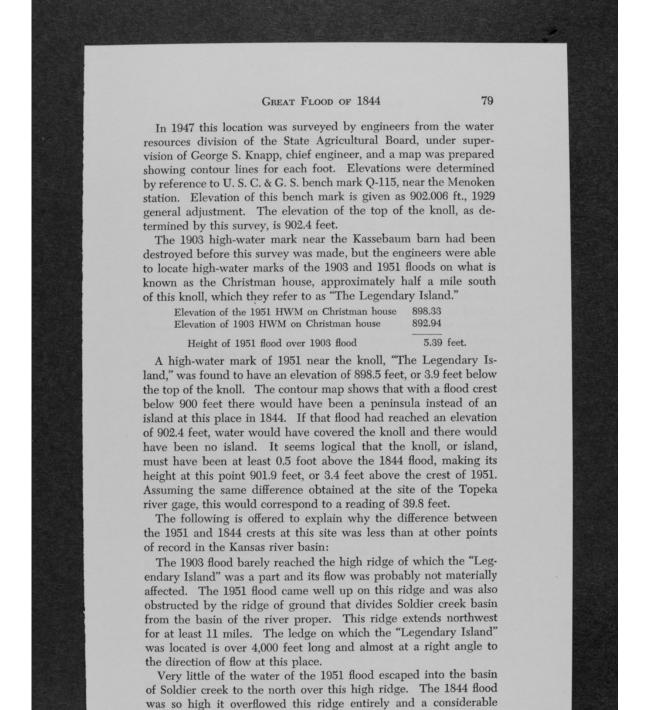
GREAT FLOOD OF 1844 point indicates that there could have been no reason to lower it. It is believed that the ground level at this place still marks the approximate crest of the 1844 flood. On November 26, 1951, levels were run from a high-water mark of the 1951 flood near Second and Kansas avenue to Third and Kansas by Guy E. Gibson and Robert L. Lingo, engineers of the water resources division of the State Board of Agriculture, with the following results: Elevation Above 1951 High-Water Mark 7.69 feet Floor of gutter southeast corner of intersection Floor of gutter southwest corner of intersection 7.72 5.96 Floor of gutter northwest corner of intersection Floor of gutter northeast corner of intersection 6.02 6.8 feet Average elevation of four corners W. E. Baldry, city engineer at Topeka for many years and a man thoroughly familiar with all paving jobs, gave it as his opinion the ground level averages eight inches, or 0.7 foot, below the floor of the gutter in each case. Subtracting 0.7 from 6.8, the average of the four gutters, gives 6.1 feet which, according to evidence available, is the height of the 1844 flood above that of 1951 at this point. Assuming that the same difference in elevation of the two floods prevailed at the site of the river gage, the gage reading of the 1844 flood would have been 42.5 feet. The crest of the 1951 flood was 36.4 feet. In addition to the high-water mark at Third and Kansas avenue, there exist two other legendary high-water marks of the 1844 flood a few miles from the city. One is located near the former site of the Rock Island station, Bishop, a little less than half a mile south of the river and five miles almost due west from the present location of the river gage on the Topeka avenue bridge. The other is near the former Union Pacific station, Menoken, 4½ miles northwest of the Topeka avenue bridge, 1% miles north of the river, and 2% miles northeast of Bishop. The 1844 high-water mark at Bishop was pointed out by B. A. Snook, 323 Lindenwood, Topeka. He has been familiar with the Bishop locality for many years. He identified it as the elevation of the midway point of a sloping northwest-southeast section of a graveled road, about 300 feet in length, leading southeast from a bridge across a creek one-fourth mile southeast of the Bishop station. This road makes a sharp turn in the vicinity of the bridge and another turn about 300 feet from it. It is practically straight



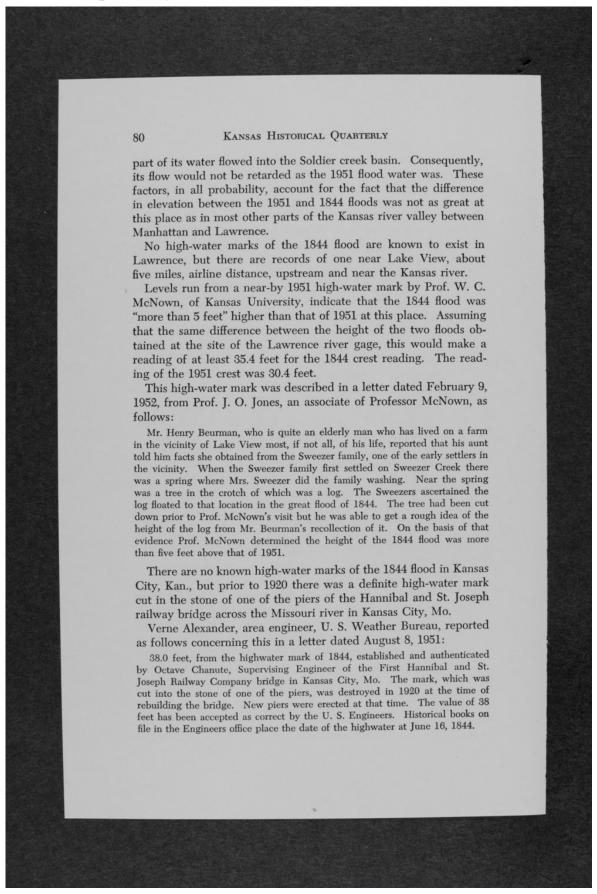
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78 KANSAS HISTORICAL QUARTERLY between these two points. It has been graded down somewhat in the immediate vicinity of the bridge, but there are no indications that the elevation of its mid-section has been changed materially. Mr. Snook stated that this high-water mark had been pointed out to him by a half-breed Indian, called Captain Ernest, who once lived in a cabin near by. He told Mr. Snook he obtained the information from an old Indian, name not known, who had been there during the 1844 flood. The fact that Mr. Snook located this point definitely on two successive occasions and the fact that the elevation in relation to the flood crest checks so closely with the high-water mark in Topeka, indicates much credence is to be given his statement. Levels were run to this high-water mark on November 26, 1951. from a near-by high-water mark of the 1951 flood by Guy E. Gibson and Robert Lingo, the same engineers who ran levels at Third and Kansas. The high-water mark of 1951 in question was a one-x twoinch wooden stake, driven horizontally into a section of steeply sloping ground beside the road, about 35 feet southeast of the abutment of the bridge mentioned. It had been set by Phil C. Gravenstein, county field engineer, shortly after the flood subsided and while the marks of the high point were visible on the ground. These levels showed that the 1844 flood at this point was 5.8 feet higher than that of 1951 and corresponded to a stage of 42.2 feet on the Topeka gage. According to an Indian legend, the flood of 1844 covered the valley from bluff to bluff in the vicinity of Topeka, except for a small knoll 4½ miles northwest of the city near the site later occupied by the Union Pacific station, Menoken. Menoken is on the north side of the river and about 2½ miles northeast of the other high-water mark near Bishop, which is on the south side of the river. E. C. Kassebaum, whose residence was located on this knoll, reported that a half-breed Indian told him this legend. George A. Root reported the same legend. He learned of it through talks with Indians on the Pottawatomie reservation, near Topeka, in 1897. In 1928 levels run by V. R. Parkhurst, a civil engineer especially interested in floods, from a high-water mark of the 1903 flood then existing in a shed adjacent to the barn of Mr. Kassebaum, to the crown of the knoll, indicated that the 1844 flood at this place was 9.5 feet higher than that of 1903 at this location. Assuming the same difference existed at the site of the Topeka river gage, this would be equivalent to a stage of 42.2 feet.

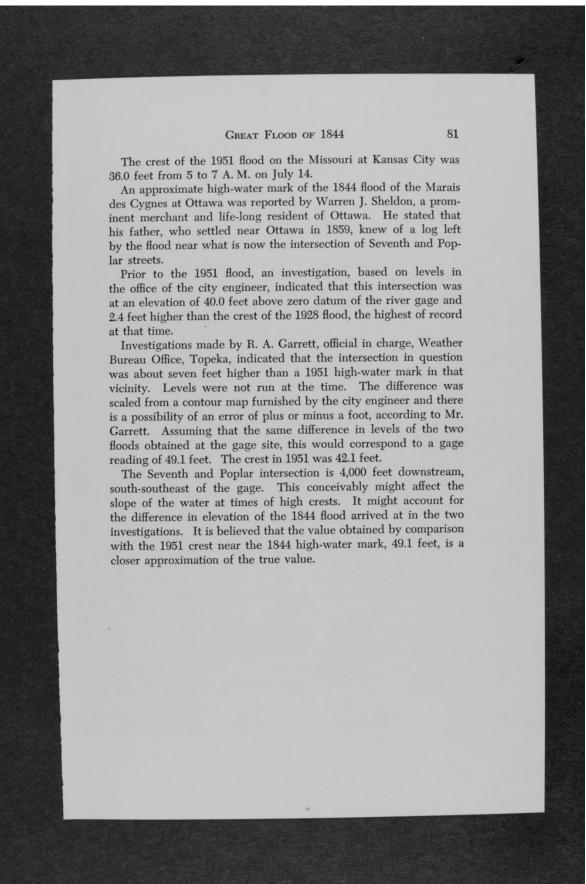




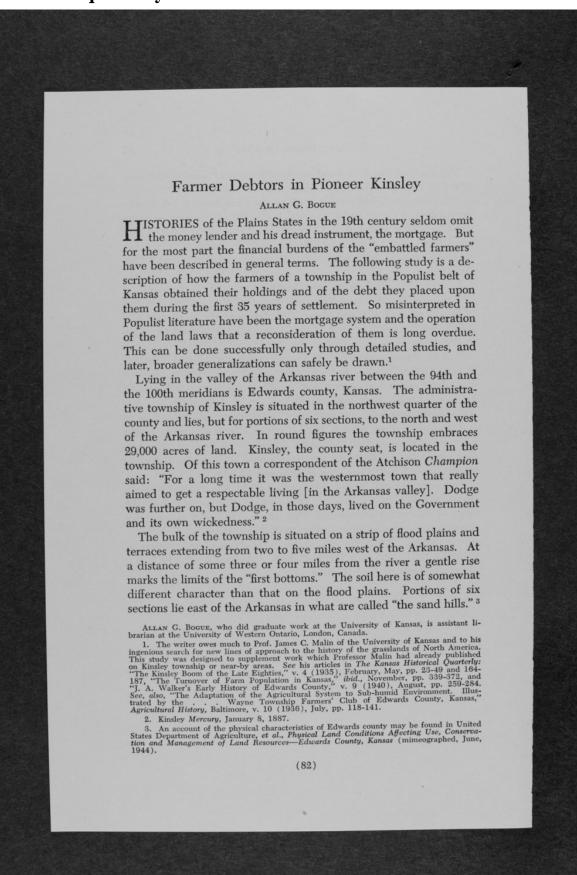




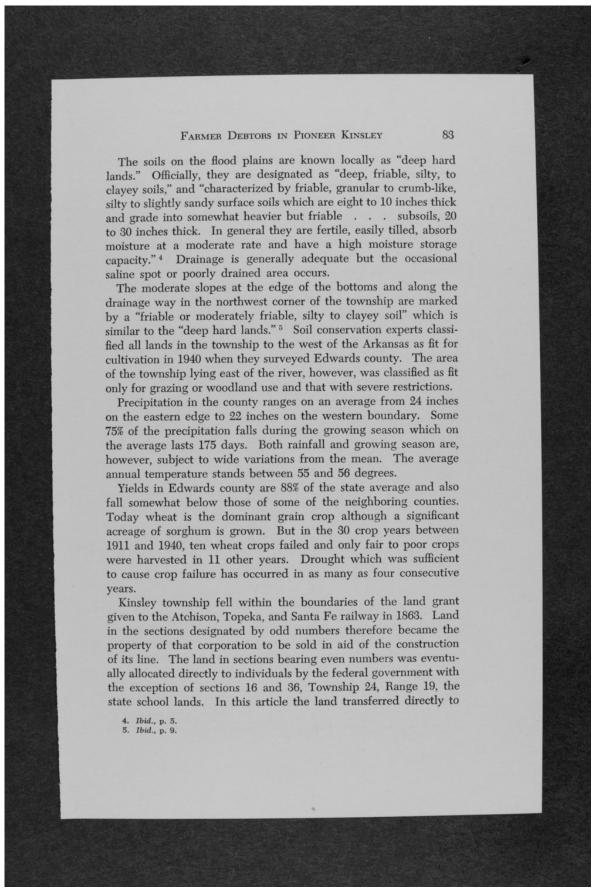














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individuals by the federal government will be referred to as government land.

The tract books of the United States Land Office identify the settlers who obtained title to government land.6 The first such settler filed his application to homestead the northwest quarter of section 4, T25, R19 in June, 1873. He obtained his final certificate 15 months later under the act of 1872 which allowed Union veterans to subtract the period of their war service from the five years of residence which were ordinarily necessary under the homestead act of 1862. The last settler to obtain government land in the township received his final certificate in 1903. Strictly speaking, title did not pass irrevocably until the patent to which the final certificate entitled a settler was issued, but for most purposes title was considered to vest in the claimant for government land as soon as he could show a final certificate.

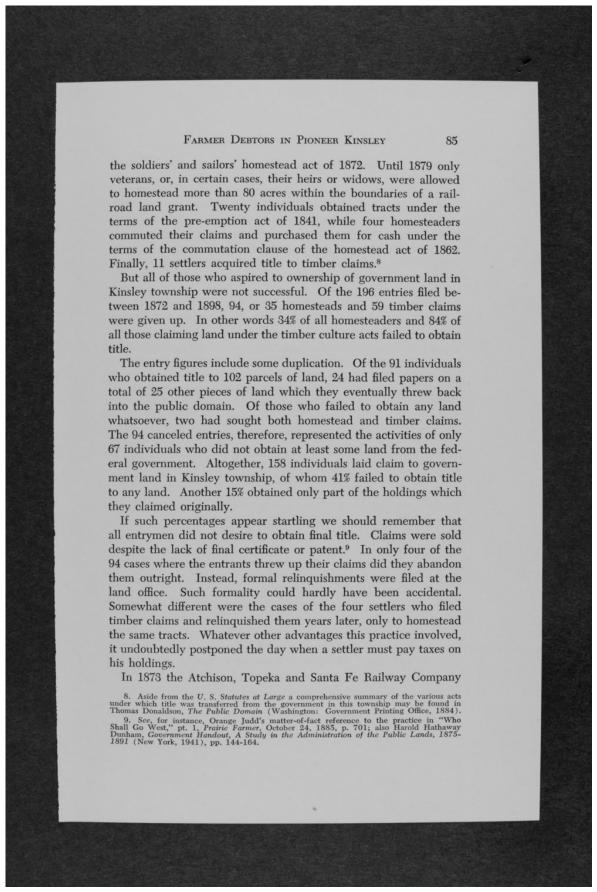
TABLE 1 DISPOSAL OF GOVERNMENT LAND IN KINSLEY TOWNSHIP

	Successful Entries	Unsuc- cessful Entries	Final Certificates		Successful Entries	Unsuc- cessful Entries	Final Certificates
1872		3		1888			
1873	14	9		1889			2
1874	10	9	1	1890	2	2	
1875	5	10	6	1891	1		
1876	10	12	6	1892	1	4	3
1877	6	9	11	1893		1	3
1878	19		8	1894		1	1
1879	12	9 5	18	1895			1
1880	3	3	7	1896	1		2 5
1881	3	3	4	1897			5
1882	1	1	5	1898	1		
1883	4	5	2	1899			1
1884	1	4	8	1900			1
1885	5	2	1	1901			
1886	2	1	4	1902			
1887	1	1	1	1903			1
				Totals	102	94	102

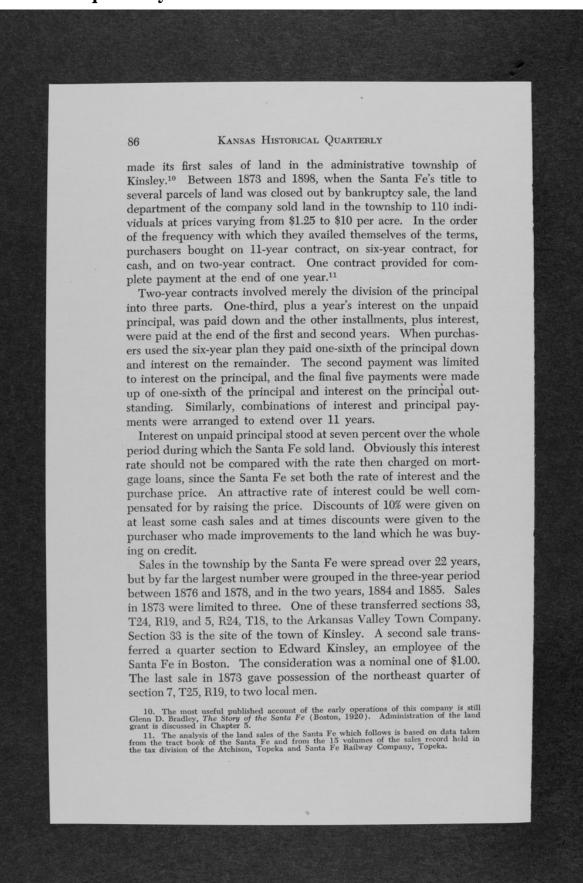
In all, 91 individuals obtained title to 102 parcels of government land. Sixty-seven homesteads were granted.7 Fifty of these were 160-acre homesteads which were obtained under the provisions of

<sup>6.</sup> Duplicate sets of land office tract books for the State of Kansas are held in the National Archives and in the Department of the Interior, Washington, D. C. These books are more enlightening than the county deed records since they show the names of settlers who subsequently relinquished their claims and include the date of the final certificates as well as that of the patents. Kinsley township fell in the land district administered from Larned.
7. The word homestead will be used throughout this article to refer to land either acquired by its owner under the terms of the various federal homestead acts or land in the process of being thus acquired. In the legal sense of course a homestead is a holding which its owner holds free from the claims of creditors under certain conditions.

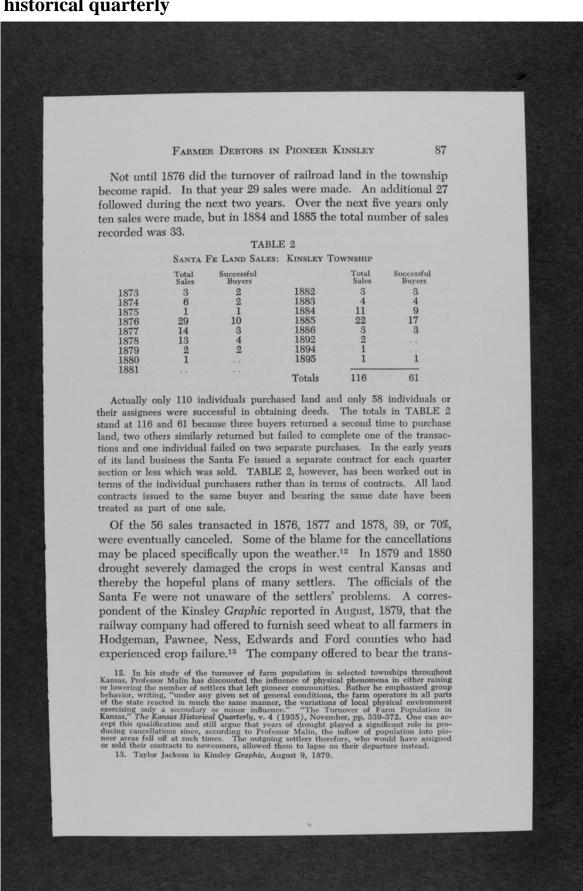




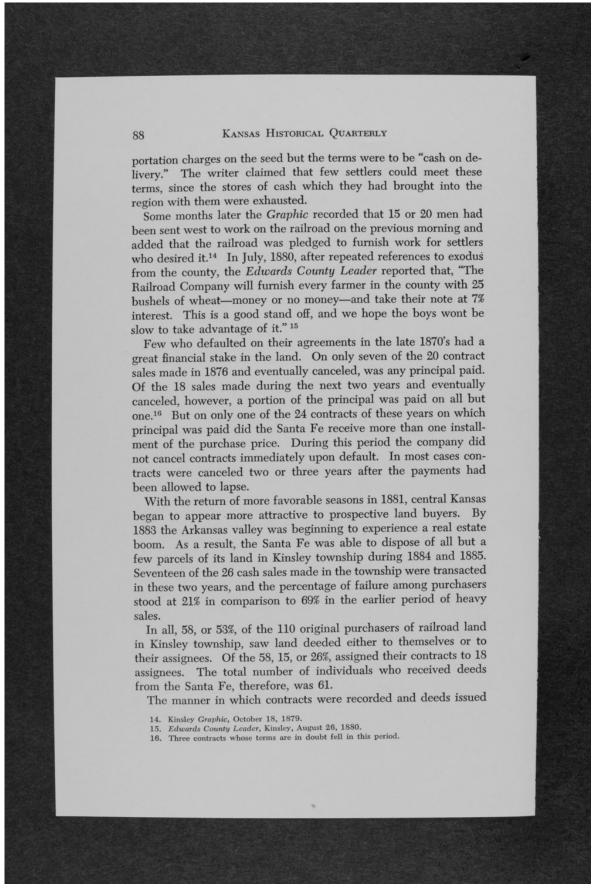




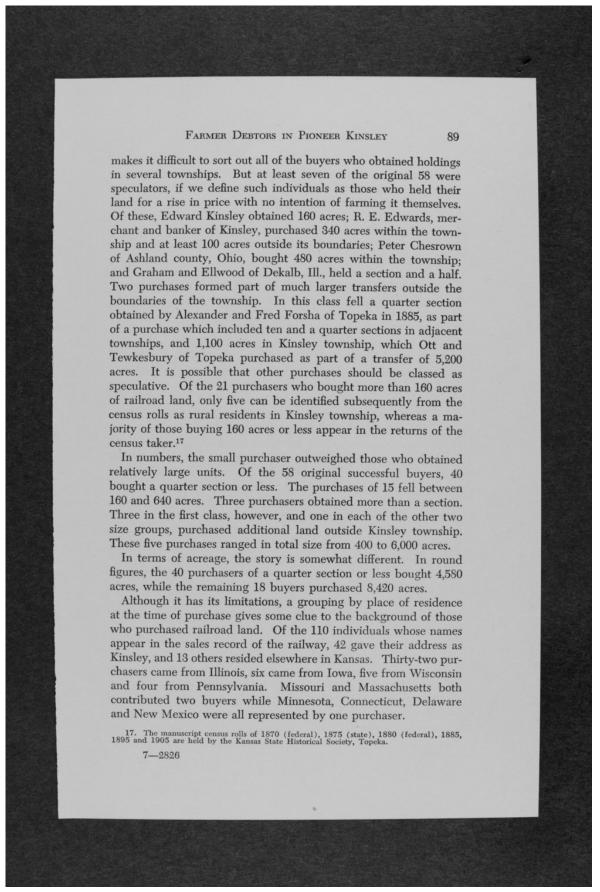












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Those who were successful in completing contracts issued prior to 1879, took, on the average, 49 months to meet their obligations to the railway company. Successful contractors from 1882 onward paid out in 44 months on the average. The difference is not one from which significant conclusions can be drawn. The fact that funds were available more cheaply on mortgage security during the second period may have encouraged contractors to pay out more quickly.

There was no great overlapping among those who purchased railroad land and those who obtained land from the government. Fifty-eight of the original purchasers of railroad land and 18 assignees can be described as successful in their dealings with the Santa Fe. Five of the original 58 succeeded in obtaining both government and railroad land. One of the 18 assignees obtained title to government land. Five of the remaining 85 individuals who received patents on government land attempted railroad land contracts but failed to complete them.

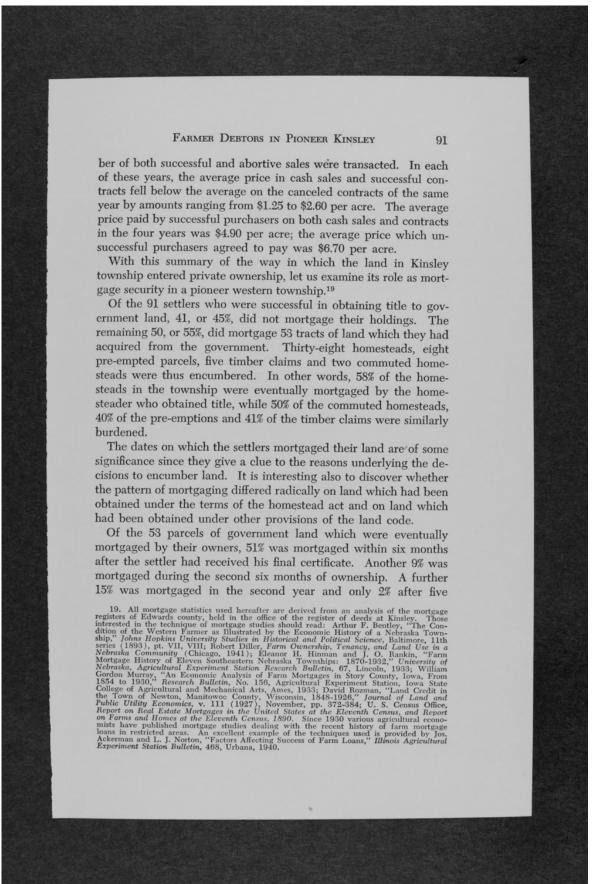
Seventy-nine percent of those who purchased railroad land elected to buy their land on credit. Twenty-one percent paid cash. 18 Nine of the 23 who made up the group of cash purchasers obtained units of 320 acres or more. Two of these, the Forshas and Ott and Tewkesbury, received 11,000 acres in total at a cost of \$1.75 and \$1.25 per acre. The prices paid by the seven other large purchasers ranged between \$4.00 and \$10.00 per acre.

Of the 87 individuals who sought to take the contract route to ownership, 52, or 60%, failed either to obtain a deed or to assign their contracts to someone who did so. In contrast, 34 out of 100 settlers who attempted to homestead land in the township, failed in their efforts. The record on timber claims, however, was worse than that made by the contractors with the Santa Fe. If we consider totals, 41% of all individuals who sought land under the homestead, pre-emption, and timber culture acts, were completely unsuccessful. In comparison, when cash sales of railroad land are considered along with contracts, 47% of the purchasers or their assignees failed to obtain a deed. The percentages are surprisingly close.

If such percentages seem to indicate that price had little effect on the success or failure of those seeking title to land in Kinsley township, the conclusion is modified by a comparison between the prices actually obtained by the Santa Fe in cash sales and on successful contracts and the prices specified in canceled contracts of the same years. In 1876, 1877, 1878 and 1885 a considerable num-

Actually 25 cash purchases were made but two buyers returned to obtain additional land.

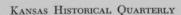




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years had elapsed. There was little difference between the percentage of homesteaded and the percentage of pre-empted land which was mortgaged within the first year of ownership. All of the mortgages on pre-empted land were placed, however, by the end of the third year of titled possession, while 16% of the homesteaded land was mortgaged after the third year of titled possession. All of the timber claims were mortgaged in the first year after title was obtained. Only four out of 70 successful homesteaders, or 6%, commuted their homesteads and paid for their land at the pre-emption rate of \$1.25 per acre. Two of the four mortgaged their land, but only after two and five years had elapsed after the date when they acquired title. That the pre-emptors and those who commuted homesteads bought their land for cash seems to have had little effect upon the percentage of those who mortgaged their holdings soon after obtaining title. Fifty percent of the mortgagors among pre-emptors and "commuters" encumbered their land within a year of acquiring title; 58% of the homesteaders who mortgaged did so during their first year of titled possession.

TABLE 3

Date of Encumbering Government Land

Mortgaged:		Home steads		Pre-emp-		Commu- tations		Timber Claims		Combined Totals	
		%	No.	%	No.	%	No.	%	No.		
within 6 months after title,	20	52	4	50			3	60	27	51	
between 6 months and 1 year after title	2	5	1	12%			2	40	5	9	
between 1 year and 2 years after title	6	16	2	25					8	15	
between 2 years and 3 years after title		11	1	12½	1	50			6	11%	
between 3 years and 5 years after title		13			1	50			6	11%	
more than 5 years after		3							1	2	

Of the 61 individuals to whom the Santa Fe deeded land, 19, or 32%, mortgaged all or part of their holdings. Ten of the 19 mortgaged all or part of their holdings within six months after they had obtained title. One other purchaser mortgaged within a year after the Santa Fe had given him his deed, a second within two years, and the remaining seven recorded mortgages on their land from two to 13 years after acquiring their deeds from the railway. A smaller percentage of those who paid hard cash to the railroad for their land found it necessary to mortgage that land later than did those who homesteaded government land. As in the case of the govern-



