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HISTORY OF THE UNASSIGNED LANDS

Part Nine

by

William D. Welge

In an effort to thwart the federal government with its territorial designs on Indian Territory, the Okmulgee Council in December, 1870 recommended, "that the council proceed to form a constitution for the Indian Territory, which shall conform to existing treaty stipulations (Treaties of 1866),... and binding only upon such nations and tribes as hereafter may duly approve and adopt the same."

Several days of debate ensued. A committee of twelve individuals was appointed to draft a constitution. The committee began immediately the task for which it was appointed. In remarkable conciseness, the document consisted of a preamble and forty-six sections which were grouped into six articles. There was also a "bill of rights" consisting of thirteen sections. The proposed document became known as the Okmulgee Constitution.

The first tribal government to act on either accepting or rejecting the constitution was the Chickasaw Nation. The tribal council flatly rejected the document which dampened efforts to have it passed by other tribal governments.

To be continued

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HISTORY OF THE UNASSIGNED LANDS

PART TEN

by

William D. Welge

The Okmulgee inter-tribal council would continue to meet throughout the 1870's. During that period, it struggled to prevent the federal government from extending territorial status over Indian Territory.

Between 1873-1879, more than a dozen bills for the organization of the Territory of Oklahoma were introduced in Congress. Two groups who were interested in the eventual organization of Oklahoma were the railroad companies namely the Missouri, Kansas & Texas and the Atlantic & Pacific Railway and people desirous of settling the unoccupied lands.

Members of the Five Civilized Tribes, especially the Cherokee, maintained delegations in Washington, D.C. to protect their interests in matters particularly the question of Oklahoma. Yet, it was one of their own that opened the flood-tide of humanity which led to Oklahoma Territory to become a reality.

To be continued

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HISTORY OF THE UNASSIGNED LANDS

PART ELEVEN

by

William D. Welge

The Cherokee National government took a leading role in the struggle to block territorial status upon being conferred on Indian Territory, yet it was one of their leading citizens which sparked the eventual "Boomer Movement" and subsequent opening of central Oklahoma to settlement.

Elias Cornelius Boudinot (Boo-den-o) was the son of Elias and Harriet Gold Boudinot. Elias was born near Rome, Georgia in 1835. When not quite a year old, his mother died. In 1839, his father, a member of the Treaty Party, was assassinated in 1839. It is presumed that young Elias was raised by his fathers brother, Stand Watie.

Boudinot was educated in the Cherokee Nation and in New England where he studied law. At the outbreak of the Civil War, Elias embraced the Confederacy and helped his uncle Stand raise troops for service. He was also selected as a delegate in the Confederate Congress at Richmond.

Boudinot by nature was a radical which ran counter to the accepted views of his people and the Cherokee National governmental policies. He endorsed the organization of Indian Territory, the opening of surplus lands to white settlement and the building of railroads, thus practically expatriating himself in the Cherokee Nation.

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As the third session of the Forty-fifth Congress drew to a close, a well orchestrated effort was made to encourage settlers with adventure to force the settlement of the unassigned lands without gaining federal approval. The first indication of such a movement came in the form of a letter written by E.C. Boudinot which was published in the Chicago Times February 17, 1879. Boudinot announced that the great bulk of lands in western Indian Territory ceded by the Creek and Seminole Nations by the treaties of 1866, were in reality public domain of the United States and were subject to settlement under the Homestead Act of 1862. The news created instant excitement.

To be continued

(Please use photo of Boudinot with this article, thanks, WDW.)

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HISTORY OF THE UNASSIGNED LANDS

Part Thirteen

by

William D. Welge

News about the unassigned lands being considered public domain spread like wild-fire. Like the instant excitement of gold being discovered in the Black Hills three years earlier in 1876, rumors circulated madly that an invasion of the Indian Territory was eminent. One of the Black Hills invaders was also among those planning to make a foray into Indian Territory. The one "colony" being organized was at Kansas City, under the direction of "Colonel" C. C. Carpenter. A reliable report concerning Carpenter's activities was written by Indian Inspector John McNeil who stated that, "Carpenter is here. He is the same bragging, lying nuisance that I knew him seventeen years ago, when he infested Fremont's quarters. He will not put his head in danger by entering the Territory. It is a pity that the law could not hold him as a conspirator against the public peace."

McNeil's report went on to state that, "He [Carpenter] came to Independence, some twenty miles from here, at the end of a little spur of the same railroad. The merchants agreed to give him five hundred dollars when his first party came and a thousand dollars more when a thousand emigrants had been moved into the territory by him."

Carpenter issued circulars throughout Missouri and Kansas extolling Oklahoma to would-be settlers. When the anticipated throng of land-seekers did not materialize, his financial backers withdrew their support. Carpenter moved his

operations to Coffeyville. Here, Carpenter's wife continued to solicit funds for the invasion of Oklahoma. In late April, 1879, over hundred families left Coffeyville for the "Promise Land". The group traveled through the small community of Tulsa in the Creek Nation then on past the Sac and Fox Agency. Approximately eighteen miles west of the agency, the Carpenter invasion set up Carpenter City. Troops on alert removed the settlers to the Kansas border. Once confronted by Inspector McNeil, Carpenter went into hiding and the settlers escorted back to Kansas cursed his name.

To be continued

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HISTORY OF THE UNASSIGNED LANDS

Part Fourteen

by

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Although the Carpenter "invasion" had been squelched by the military, rumors persisted that another invasion of the territory was eminent. President Rutherford B. Hayes issued a proclamation warning all persons to desist from intruding on Indian Lands, which was construed to include the unassigned district.

Troops were deployed near the Kansas border near communities where persons might try to cross into Indian Territory. Excitement in some Kansas border towns was high with settlers ready to rush into the area to stake claims. For a few months the invasion of Indian Territory receded into memory, but a new leader would emerge who would rekindle the flame to push for opening the unassigned lands.

David Lewis Payne became the new Moses to lead a land-straved people into the promise land. Born near Fairmont, Indiana December 30, 1836, Payne grew up near the frontier. His education was meagre though he enjoyed reading. He was never continuously employed in any particular vocation and was a failure as a farmer. He was an adventurer who yearned for the excitement the frontier had to offer. In 1858, Payne settled on the Kansas frontier near the Missouri border. However, with the outbreak of hostilities between the states, young Payne enlisted

with the Fourth Kansas Infantry as a private. It was here the Payne saw his first glimpse of Indian Territory while marching through Indian Territory to stop rebel troops in the Cherokee Nation. After three years of military duty, Payne was discharged in 1864. He returned to Kansas where he was elected to the Legislature in the fall of 1864. After the Legislature adjourned, Payne re-enlisted in military service and was at Appomattox when hostilities ceased in 1865.

To be continued

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History

HISTORY OF THE UNASSIGNED LANDS

By

William D. Welge

Part Fifteen

After the end of the Civil War, David L. Payne had what would be considered a varied career. Payne served as sergeant-at-arms of the Kansas House of Representatives during the 1866 session. Shortly after that, he was appointed postmaster at Fort Leavenworth, Kansas, but his adventurous spirit could not tolerate the confines of clerical duties. By 1867, Payne turned to the military once again offering his services to the Eighteenth Kansas Cavalry being commissioned a captain. The military unit was raised to combat the Plains Indians who were the cause of much trouble in western Kansas.

By 1868, Indian outbreaks were so numerous that the war department petitioned the Kansas governor to raise volunteers to comprise a full regiment of cavalry. Thus the Eighteenth was merged into the Nineteenth and Payne was listed as a troop captain. The Nineteenth Kansas saw active service during the winter of 1868-1869 traveling in bitter cold weather from southwestern Kansas, western Oklahoma and the Texas panhandle. This was Payne's second opportunity to see the terrain of Oklahoma.

By 1870, Payne was mustered out of the service and had settled on a homestead in Sedgwick County, Kansas. Here he attempted to farm the land, but with little success. In 1871, Payne was elected to the Kansas House once again

where he championed the removal of political ostracism of ex-Confederate soldiers who had been disfranchised in Kansas. In 1872, he was nominated to the State Senate, but was defeated.

By 1874, David Payne left Kansas for hopefully greener pastures in Washington, D.C. where the Democrats had broken the Republican control of Congress. Payne was hopeful that he could secure employment under the new Congress. He was to spend the next five years in and out of work. Finally, the life of a bureaucrat was too much for Payne as his adventrous spirit began to look west again.

It was during his stay in the nations capitol that he met E.C. Boudinot. It was through this acquaintance that Payne began to formulize plans to colonize Oklahoma. By August, 1879, David Payne left Washington and returned to Wichita to begin the struggle for opening Oklahoma.

To be continued

HISTORY OF THE UNASSIGNED LANDS

By

William D. Welge

Part Seventeen

David L. Payne was a vagabond who found sedentary life too routine, too mediocre. He found Washington City too confining and not too profitable. Times were hard in 1879 and Payne was penniless. As Stan Hoig, western historian mentioned in his work on Payne, "the more Payne's situation worsened in Washington, the more he became interested in the...'Oklahoma lands'."*

He laid plans to return west and begin his quest for the unassigned lands. It is not certain what exactly led Payne to agitate for the opening of Oklahoma. Perhaps he felt that where Carpenter failed, he would succeed and bring the notoriety he so eagerly sought.

As early as June, 1879, there were indications that Payne was beginning to lay the groundwork for his plans while still in the nations capitol. Druggist C.M. Hines wrote to Payne stating that, "I would like to be with you. If you have a chance to find anything for me to do out there I would by very glad. Try what you can for me. Anything-If you succeed in the matter in which you are engaged, and you can help me to a place please do so."**

Payne had a natural ability of persuasion. As pioneer historian Joseph Thoburn put it, Payne was, "outwardly frank and generous, he could easily play upon the credulity of the adventurous class which was attracted by the novelty of his scheme."***

After returning to Wichita, Payne began to solicit support for his plans. He felt quite certain that Boudinot's thesis of public domain in the heart of Indian Territory was solid and based on treaties and other legalities, correct. It was just a matter for someone, such as himself, to prove that legal point by forcing the hand of the federal government.

To be continued

* David L. Payne: the Oklahoma Boomer, by Stan Hoig p. 52.

** C.M. Hines to D.L. Payne, June 19, 1879, David Payne Collection, Oklahoma Historical Society.

*** History of Oklahoma, by Joseph Thoburn, (5 vols.), Vol. 2, pp. 575-576.

9-7-88

HISTORY OF THE UNASSIGNED LANDS

by

William D. Welge

Part Twenty One

As word spread concerning the Boomer activities, enthusiasm grew. David Payne traveled to several southern Kansas communities promoting his Oklahoma movement. At each stop, new members were added to the Southwest Colony rolls.

Meanwhile, communications forwarded to the Department of the Interior officials concerning the Boomer activities prompted the Secretary of the Interior and War to urge President Rutherford B. Hayes to issue some measure to counteract the movement to settle in the unnassigned lands. On February 12, 1880, President Hayes issued the following proclamation:

> "Whereas it has become known to me that certain evil-disposed persons have, within the territory and jurisdiction of the United States, begun and set on foot preparations for an organized and forcible possession of and settlement upon the lands of what is known as the Indian Territory, west of the State of Arkansas, which Territory is designated, recognized, and described by the treaties and laws of the United States, and by the Executive Authorities, as Indian Country, and as such is only subject to occupation by Indian tribes, officers of the Indian Department, military posts, and such persons as may be privileged to reside and trade therein under the intercourse laws of the United States

And-

United States will be invoked to carry into proper execution the laws of the United States herein referred to.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this Twelfth day of February, in the year of our Lord one thousand eight hundred and eighty, and of the Independence of the United States the one hundred and fourth.

[SEAL] [Signed] R. B. Hayes" *

To be continued

*Proclamation of R.B. Hayes, President, February 12, 1880. (National Archives Microcopy #666, Roll 473, Office of the Adjutant General, Letters Received, Intruders).

9-14-88

History of the Unassigned Lands

by

William D. Welge

Part Twenty Two

The issuance of the Presidential Proclamation did not diminish Payne's efforts to colonize Oklahoma. Colony memberships continued to stream in. Certificates issued by the Southwest Colony entitled the holder, "to all the protection and benefits of said colony, and to an equal voice in all matters pertaining to the formation of its local government."*

The Boomer movement could claim several hundred members in Kansas with auxiliary movements in Arkansas, Missouri and Texas. The military presence along the southern Kansas border had a disheartening effect. Payne on several occasions claimed that hundreds if not thousands would join in the invasion, however, only eighty-six persons reported to the holding camp just north of the border. Payne found that only twenty-one men were willing to follow him into the territory military forces or not. The others were intimidated by the strong forces General John Pope had amassed across the border.

Payne openly made his intentions known. He dispatched a trusted friend to Washington to confer with government officials, and he addressed a letter to the President and Secretary of the Interior detailing his plans to settle in Oklahoma, but neither official responded. Payne urged the officials to cite what law prevented their occupation of public domain. Payne offered to abandon the enterprise if it could be shown that the colonists were lawbreakers.

Captain Payne writing to U.S. Attorney Hallowell at Topeka stated that,

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Part Thirty Four

"The movement was nearing its end."[1] Payne's third expedition was a complete failure. As W.W. bloss recounted, "the signs of dissolution were quite apparent. One by one the colonists were dropping out of the line. Payne himself perceived that it was a useless struggle."[2]

For all of Payne's bravado, when confronted with military authority, he preferred the action of no action. This is what led to his replacement as commander of this latest invasion. But for many who paid their precious two dollar membership fee, it was a bitter blow.

Though Payne and his Oklahoma Colony failed to achieve its objective, the movement was gaining attention across the nation. However, most frontier publications regarded Payne as an absolute trouble maker.

Typical of the invective hurled at Payne were comments found in the Cheyenne Transporter which was published at Darlington near Fort Reno. W. A. Eaton, Editor and Publisher remarked;

> "we learn that [Payne] has inveigled into his coils a large number of bar room loafers and hundreds of grangers...who spent their last two dollars for a membership in the colony. A motley crew to be sure."

However, editor Eaton continued to say, "they start to Oklahoma at the

beginning of winter with provisions scarely [sic] sufficient for a month's subsistence and must build, fence and fix up for living, and cannot realize money for their labor...until they have made a crop. Should their first crop fail, which it is likely to do, their condition would be more destitute than it now is, Payne's object would be accomplished and the settlers might go to the devil. No doubt this will cause Payne's cohorts to tell ten thousand lies, but they are used to that and their reputation will not suffer."3

Payne and his closest advisors were hoping for action in Congress to open the territory as resolutions pertaining to the subject had been introduced in the House and Senate. The resolutions stipulated that, "the lands in the Indian Territory to which the Indian title had been extinguished and which are unoccupied by Indians, [be declared] public lands of the U.S. subject to...settlement."[4]

As the Kansas City Journal lamented, "it is evident that Col. Payne's army can obtain neither relief nor sympathy from congress and its members should return peaceably to their homes."[5]

Other opportunites would present themselves soon, but for now, the Oklahoma Boomer turned his attentions to his legal problems.

To be continued

[1]W.W. Bloss Manuscript, Thomas Athey Collection, Box 2, Archives/Manuscripts Division, Oklahoma Historical Society.

[2]Ibid.

[3]Cheyenne Transporter, December 24, 1880, p. 1. cols. 3-4.

[4]Ibid, p. 2, col. 3.

[5]Kansas City Journal, December 20, 1880, p. 1, col. 1.

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Part Thirty-Five

Though the Boomer movement was dealt a temporary setback, the tenacious colonists would regroup once more to invade the unassigned lands regardless of the military might. However, there were unforseen events of disappointment, discouragement and yes, even tragedy.

One such story details Payne's misrepresentations concerning the lands in Oklahoma and its availability to settlers. Flyers were circulated not only in Kansas, but Missouri, Arkansas, Texas and numerous other states touting the virtues of the unassigned lands. One Arkansas farmer enticed by the advertisement, was a man of considerable intelligence, yet he was duped by Payne and his ~~fictious~~ fictitious pronouncements. He gathered up his worldly possessions to make the trip to Oklahoma to begin a new life. Totally unaware of the military presence (Payne's ads failed to mention troops patroling the area arresting anyone found residing in the territory), he and his three children, along with sixty head of cattle, travelled deep into the territory.

Caught in a November snow storm, the family, "were twenty-six days without seeing any person but themselves." Stumbling into a soldiers campsite, the colonists were without food or money and their

livestock in poor condition were informed that they were intruders and must return from whence they came.[1]

Or more tragic was the discovery of a man and his dog by patroling scouts, "who were frozen to death among some trees. The poorly clad man wore a thin brown suit, buckskin leggings and a coonskin hat. His rifle lay nearby."[2]

These examples illustrate some of the folly and deception which Payne led numerous individuals by baseless claims, unfortunately, too many people did not see the end result in time. These melancholy events did not deter the Oklahoma Boomer or his followers. "Pronouncements of failure and personal taunts seemed to go almost unheeded by him as he continued on his great crusade."[3]

Up to this point, Payne was becoming frustrated with the lack of due process in the judicial system with his case being postponed several times. Those frustrations were equally shared by the leaders of the Five Civilized Tribes.

Since October, 1880, the five tribes were preparing their case against Payne. As George W. Grayson reported to Samuel Checote, Principal Chief of the Muscogee (Creek) Nation that he, "had an interview with Gov. Overton of the Chickasaws who was just from Ft. Smith... he notified me that a meeting of the Com^{tee} would be held...on the 15th day of December to confer and adopt plans for prosecution of the work assigned them."[4]

As winter slowly melted into spring, both sides anxiously waited for the wheels of justice to move. By March, 1881, the Indian delegation was growing impatient and suspicious of the delays. As Grayson

commented to Checote, "the matter of the trial of Payne at Ft. Smith as you are aware is now under consideration by I.C. Parker, Judge of the Court. He--Parker, I see is now in St. Louis the very place where this movement began, and I am suspicious of the result. I am of the opinion that it would be wise for our chief to address a communication at once to president Garfield and the Secty. of the Interior, Kirkwood, setting forth at least some of the reasons wherefore we claim an interest in those ceded lands and thus if possible some expression from which we may divine the future of this controversy."[5]

Grayson's fears concerning Judge Parker later proved to be unfounded as he was a champion of Indian issues.

To be continued

[1]Cheyenne Transporter, December 24, 1880, p. 5, col. 4.

[2]David L. Payne: the Oklahoma Boomer, by Stan Hoig, p. 104.

[3]Ibid, p. 108.

[4]G.W. Grayson to Sam'l Checote, November 24, 1880, Document #30771, Creek National Records, Foreign Relations file, Archives/Manuscripts Division, Oklahoma Historical Society. (Hereafter cited doc. # CNR, Foreign Relations file, AMD, OHS.)

[5]G.W. Grayson to Sam'l Checote, March 17, 1881, Document #30772, CNR, Foreign Relations file, AMD, OHS.

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History of the Unassigned Lands

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Part Thirty-six

With his case still pending, David L. Payne felt that he had an excellent chance of winning his case concerning determining whether or not the lands within the unassigned district were actually public domain thus allowing himself and his fellow Boomers the right to file under the Homestead laws of the United States.

Of those who were fortunate enough to view the paradise south of Kansas with Payne, saw a land of natural beauty, lush vegetation, clear flowing rivers and streams and abundant game. As Lon Wharton related many years later about Oklahoma, he stated that;

> "Oklahoma before it was opened to settlement was a paradise for hunters...sometimes one would stumble onto a flock of turkeys that seemed like four or five hundred and very often a bunch of eight or ten deer bounding through the Jack Oaks or over the prairie. Prairie chicken and quail were in abundance, and a few antelopes could be seen on the high points." 1

Today, its rather difficult to imagine wild game roaming over the very terrain now inhabited by hundreds of thousands of people and miles of concrete and asphalt yet, descriptions that exists mention fur

bearing animals such as beaver, otter, mink, fox, coyotes and timber-wolves living in the unassigned lands in great numbers. It isn't difficult to understand why Payne and so many like him agitated to open this region so the farmer or businessman could begin anew with boundless opportunities. The Indian Territory was the last vast land area in the continental United States not inhabited by white civilization, and it was up to David Payne to correct this oversight.

Payne thought he found a loophole in the Treaty of 1866 between the Seminole Nation and the United States. He cited that in Article 3, language concerning the locating of other Indian tribes and freedmen (former slaves), upon lands ceded by the Seminole could be loosely interpreted to include whites as well because of the following statement stating that, "in view of the urgent necessities of the United States for more lands in the Indian Territory".

Arguments before Judge Parker began in early March, 1881 citing Payne's assertions. But as a precautionary measure, Muscogee Principal Chief Samuel Checote under the advise from G.W. Grayson, forwarded a letter of extreme concern to the new administration in Washington.

Writing to Secretary of the Interior J.S. Kirkwood, Checote stated frankly his opinion of what confronted his people should Judge Parker rule in favor of the Boomers. He stated in part that;

> "The people of this Territory apprehend that upon this decision is pivoted in a great measure the weal or woe of the Indians of this country; since if Payne's action is justified by the decision in the case, then are licensed all the people of the surrounding states, to enter and occupy the Indian Tery. thus precipitating a state of turmoil and anarchy among our people the simple contemplation of

which in the light and experience of our past history, is absolutely alarming. If on the other hand, the proposition that the whole Indian Territory has been, and is reserved for the sole occupancy of Indians, and that therefore Payne in attempting to enter and locate therein did thereby violate the treaties and Intercourse laws of the United States, is sustained by the decision, then will be conserved for the Indians of our territory, those great national interests so dear to all freemen and especially so to the Indian nationalities inhabiting this territory. In view of these facts therefore I would respectfully ask such official expression from you as will indicate the line of policy likely to characterize your administration in the Interior department in such affairs as shall affect our landed interests or the general integrity of the Indian Territory." 2

It would be another forty-five days before Parker would render a decision, all that both parties could do was await the outcome and hope for a victory.

To be continued

[1]Statement of Lon Wharton c. 1930, Thomas Athey Collection, Box 3, Archives/Manuscripts Division, Oklahoma Historical Society.

[2]Samuel Checote to J.S. Kirkwood, April, 1881, Doc.#30776, Creek National Records, Foreign Relations file, Archives/Manuscripts Division, Oklahoma Historical Society.

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History of the Unassigned Lands

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Part 37

The wait was over. Judge Isaac C. Parker in a lengthy court document had at long last rendered his decision. The next few moments were rife with anxiety. A hush fell across the courtroom. The only utterance of a sound were birds chirping musically, unaware of the intense drama within the stone court building.

Council for the defence, Judge James M. Baker and Thomas H. Barnes gave assuring nods to David L. Payne. Equally attentive were W.H.H. Clayton, District Attorney along with D.W. C. Duncan, Cherokee and several members of the Five Civilized Tribes.

Judge Parker was an imposing figure as he peered across the courtroom. He began methodically detailing the history of the charges lodged against Payne. Parker explored the Treaty of 1866 concluded between the Creek and Seminole Nations with the United States citing the language contained in the body of the agreement. The learned jurist interpreted the implications of the language and how he determined the intent of the federal government with respect in how the unassigned lands were to be utilized. In Judge Parker's mind, the government had shown a reasonable and clear intent towards the lands in the Indian Territory.

Continuing, the federal judge outlined Payne's premise that he and his followers though denying invading Indian Territory, they did not deny their occupying the lands they considered public domain which was subject to entry for homesteading under the laws of the United States. However, Judge Parker responding to Payne's assertion countered that, "he [Payne] does not show that he has taken any of the requisite steps to give him even an inchoate Homestead or Preemption right." [1]

Parker then launched into the laws governing homestead and preemption. Most know what homestead involves, but preemption is where a person buys beforehand, in advance of another, a parcel of land. In the judges opinion, Payne had not established that he had properly settled on the lands in question.

The federal judge then turned to the question of Article 3 in the Treaty of 1866 with the Seminoles which Payne had based most of his arguments upon. After lengthy interpretation of that treaty and previous treaties concluded between the government and the Indians, Parker picked apart the boomers thesis thoroughly rejecting that a "legal loophole" existed enabling whites to settle on lands formerly held by the Creeks and Seminoles.

After more than an hour of reciting his conclusions, the outcome was abundantly clear, Parker, "ruled that Oklahoma was not public land subject to homestead entry; it had been taken by the United States for the settlement of Indians, and whether or not Indians had been located upon it, it was still Indian country."[2]

Parker ceased to speak. There was a moment of silence, then the tribal

delegation began to speak in concert, shaking each others outstretched hands. Payne and his attorneys sat in stunned silence. At this point, Judge Parker spoke once more by assessing a fine of $1,000.00 for trepassing in violation of the federal Intercourse Acts. He then declared court dismissed.

For the members of the Five Civilized Tribes, it was a tremendous victory, if only momentary. For David Payne, he left Fort Smith for St. Louis for much needed rest and to gather his thoughts.

To be continued

[1]May, 1881 United States vs. D. L. Payne, Creek National Records, Foreign Relations file, Doc. #30778, Archives/Manuscripts Division, Oklahoma Historical Society.

[2]The Road to Disappearance, by Angie Debo, p. 258.

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Part 38

The Boomer Movement suffered a serious setback when Federal District Judge Isaac Parker ruled in favor of the United States. News reached Wichita, Kansas on May 3, 1881. A gathering of Oklahoma Colony members had assembled to hear the outcome. As the news began to sink in, T.W. Eckelberger offered a resolution to urge their leader, "to renew his efforts" to effect settlement in the Oklahoma country. The measured passed.[1]

Payne was not idle while in St. Louis. He spoke to businessmen about his plans for development of the unassigned lands. He spoke to potential members in Arkansas and eastern Kansas trying to drum up support and new members. However, he found little in the way of support on his three state tour.[2]

One of Payne's principle frustrations concerning making progress towards opening the unassigned lands was the lack of having his points argued in the federal courts. The issue of Indian title in his mind had not been settled nor adequately discussed in the forum.

Shortly after his case was dismissed from the federal court at Fort Smith, Payne brought suit in the United States District Court at Topeka, Kansas against General John Pope, Department Commander of the army.

The Oklahoma Boomer was suing for damages, "on account of being forcibly removed from the territory."[3]

General Pope was bitter towards Payne especially towards this latest attempt to draw the army and its commander into court for following orders and maintaining the peace in Indian Territory. The general in his report to the adjutant-general of the Department of the Missouri, denounced Payne stating, that ,"we shall no doubt soon have a repetition of the attempts... to enter and occupy the Oklahoma district", this has been going on for the last few years. He continued by saying, "I sincerely trust that some law will be enacted to cover Payne's case at as early a date as possible. The only proceedings we can take against him have been taken, and manifestly without avail."[4] However, Payne's suit against Pope suffered the same delays and postponements as his earlier attempts at Fort Smith.

Though he could gather no colonists from Kansas, Missouri or Arkansas to launch a new venture into the territory, Payne decided to try from another angle. For the rest of 1881, Payne shifted his efforts into Texas around the Denison-Gainesville area.

While at Denison, Payne received a letter from Elias Boudinot. Apparently while the boomer was in Arkansas, he and Boudinot exchanged heated words presumably over the progress of gaining the opening of the territory. However, this rift soon healed.

Payne was no more successful in gaining members to invade the territory from Texas. The best he could manage was two companions who left Gainesville in July, 1881. The three did not stop to place claims as had been the usual case, but traveled on to Kansas. Apparently, the group crossed the territory without intervention by the military.

To be continued

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Part 39

Judge Parker's ruling against the Boomer's in early May, 1881 had a direct effect upon the general public by lessening their ardour towards joining Payne and the Oklahoma Colony. As mentioned previously, the leading Boomer could only scare up two other "colonists" to journey to Oklahoma in July, 1881. The situation looked bleak.

So there is no misapprehension to the reader, Payne was not the only one wanting to settle the unassigned lands. As early as 1876, L.C. Wantland of the Chickasaw Nation established the Crutch-O Ranch on a little creek later dubbed Crutcho Creek for the ranch. Wantland ranged cattle where Crutcho township is now located in eastern Oklahoma County.

Payne in 1880 in launching the first invasion of the territory, sought refuge there when chilling rains caused his rheumatism to flare up. The ranch, "consisted of a couple of log huts and a stockade corral...the huts had dirt floors, but the roofs still shed water."[1]

There were several Squaw men from the Cheyenne and Arapaho Agency living east of the reservation in the Oklahoma District. These white men were married to Cheyenne Indians, had mix-blood children all residing on

parcels of land they had worked and had made valuable improvements upon. Herman Hauser, one of the squaw men, had selected his land under the direction of U.S. Indian Agent John D. Miles in 1876. As an intermarried citizen, Hauser could select 320 acres under the provisions of the Medicine Lodge Treaty of 1867. Hauser and the other squaw men resided on their land until questions arose before the opening in 1889.[2]

David Payne returned to Texas after a brief stay in Kansas. In the fall of 1881, the Boomer was at Denison drumming up support to invade the unassigned lands from Texas. Payne hoped that by coming in from the south, that this would bide time from being discovered by the scouts on patrol from Fort Reno.

T. D. Price of Spencer, Indiana was concerned if, "you apprehend any difficulty with U. S. authorities, similar to that of last winter? Will there be any difficulty in obtaining a legal title to the land that a colonist may decide to settle on?"[3] In Captain Payne's optimistic attitude he more than likely answered no to both questions, however, the struggle was for from over.

[1]David L. Payne: the Oklahoma Boomer, by Stan Hoig, p. 73.

[2]The Cheyenne and Arapaho Ordeal, by Donald J. Berthrong, pp. 176-177.

[3]T.D. Price to Capt. D. L. Payne, August 29, 1881. David L. Payne Collection, Archives/Manuscripts Division, Oklahoma Historical Society.

To be continued

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History of the Unassigned Lands

by

William D. Welge

Part 41

While Captain Payne was struggling with the loneliness as he camped near the Deep Fork River, a select group of Philadelphia journalists came together to urge Congress to be mindful of its obligations towards Native Americans. These newspapermen drafted a "Platform of Principles" which if other newspapers across the country agitated enough, could possibly sway Congress into adopting the platform and thus solve in part, the Indian question.

During the latter half of the nineteenth century, there was a growing controversy between religious and secular groups concerning humanitarian treatment of the red man of this country. For the eastern philanthropists, the harsh treatment and conditions the Indians experienced under the management of the federal government was unacceptable. By the same token, the men, women and children whose lives had been disrupted by Indian raids and massacres had no love for Poor Lo.

The signers of this platform stated that the Indian question which has haunted the federal government might be solved. "The Press of the United States has been for many years calling for radical reform in this

subject, and now that a project is suggested which, if carried out, will protect an unfortunate race, and, at the same time, remove the disgrace of our past Indian history, it should be actively promoted."[1]

Excerpts from the proposed platform included "good faith, never break with the Indians." It particularly mentioned the Indian Territory and called for keeping, "all intruders out of the Territory. Continue the self-government of the civilized tribes." And the document called for the tribes to, "let them regulate their own land tenure."[2]

The platform also suggested changes in the Indian Department, recommended no more removals of Indian tribes and grant citizenship to Indians who were self-supporting. The journalists urged greater educational benefits for the tribes and allotment of lands on the various reservations.[3]

This was one of many proposals submitted to Congress following the American Civil War in order to solve the problem of what to do with the Indians. In almost every instance, the leaders of the Five Civilized Tribes resisted attempts by congressional leaders to alter their way of life. The movement favored by the journalists may have reached Washington, but it would be several years yet before policy regarding the Indian Territory was changed.

It was now mid-March, 1882. Captain Payne suffering from various aliments during his solitary residency was becoming desparate for old Tom to arrive. The Boomer leader chronicled his daily activities in his diary. On the 10th of March Payne wrote, "Have felt bad all day...have headache badly am geting [sic] out of patience and out of heart Some one

aught [sic] to have reached here by this time."[4] By March 12th Payne wrote, "All is right now Tom and Mr. Miller come Early this A M And From the very depths of My heart do I thank God for his goodness in sedning [sic] them."[5]

Payne and company were back in Kansas before the end of March. His lonely vigil for nearly a month deep in the unassigned lands did not dampen his enthusiasm towards agitating for the opening the territory for settlement.

Before 1882 was over, Payne would lead two large group of colonists first to his Deep Fork site in May then an expedition of boomers to the North Canadian River near present Jones in August.

No doubt the reason for the increased boomer activity can be attributed to a circular Payne published in attempts to answer the mosted asked questions concerning Oklahoma. Besides providing a brief overview of the various treaties concluded between the Creek and Seminole Nations and the United States regarding the unassigned lands, Payne also included recent correspondence between federal officials concerning the disputed lands.

The circular encouraged any and all vocations to come and join their movement. Payne in order to accomplish this, basically overstated the truth by declaring that, "the Indian Territory, it is universally admitted,is capable of sustaining a population, in thrift and happy content, of ten millions of people. It is the garden spot of this continent. Its latitude and longitude; its soils and nutritious grasses; its fine timber and grand prairies jeweled with garden flowers, of every variety and color; its landscapes and clean, well trimmed parks offer inducements

to settlers unequaled in the world."[6]

Enticing as it was, the harsh realities of existence in that wilderness were strangely overlooked. Little wonder with advertisements such as this one, the Boomer movement had a resurgence of colonial activity ready to invade the forbidden country of Oklahoma.

To be continued

[1]Letter January, 1882, "TO THE PRESS OF THE UNITED STATES", Creek National Records, Federal Relations file, document #29848. Archives/Manuscripts Division, Oklahoma Historical Society.

[2]Ibid.

[3]Ibid.

[4]Diary of David L. Payne, David L. Payne Collection, Archives/Manuscripts Division, Oklahoma Historical Society, p. 8.

[5]Ibid, p. 8.

[6]Circular, June, 1882, "TO OUR OKLAHOMA COLONISTS", David L. Payne Collection, Archives/Manuscripts Division, Oklahoma Historical Society.

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Part 42

As the year 1883 began, Payne's Oklahoma Colony was gaining popular support and a greater sense of organizational ability. Boomer chapters sprang up in various southern Kansas communities including, Caldwell, Arkansas City, Kansas City and Emporia. To offset adverse frontier newspaper coverage, the colony launched on January 12, 1883 the Oklahoma War Chief. This boomer publication was sporadically issued over the next three years.

Two weeks later, Payne was gathering one of the largest group of homesteaders to enter Indian Territory. Their destination was the North Canadian (near the future site of Oklahoma City).

Settlers from Texas with 150 men as well as a group from Kansas would eventually join the colonists on the Canadian.[1] What makes this invasion of particular interest is that for the first time the expedition would be photographed. Young C.P. Wickmiller would capture for posterity the boomer invasion. Also along was one William L. Couch of Douglass, Kansas with a party consisting of twenty wagons.[2]

The military was placed on alert to arrest the invading horde and then eject them from the territory.

The weather was very cold with patches of snow dotting the countryside. As the colonists prepared to break camp near the boundary separating Kansas and Indian Territory, Wickmiller took his first photograph.

The expedition moved forward on the first of February. The boomers reached the Deep Fork eight days later. Here young Wickmiller photographed several boomers including little Alice McPherson. By evening, the North Canadian was reached. Before the settlers lay a wide meadow near the river with trees dotted along the rim. The happy, but exhausted group designated this area as Camp Alice in honor of the little girl.[3]

Arriving about the same time was a detachment from the Ninth Cavalry under the command of Captain Henry Carroll. Payne and his co-leaders were arrested and taken to Fort Reno. The estimated 900 settlers were escorted back to Kansas and released.[4]

Rather than transport Payne and company to Fort Smith for trial, orders were received to escort the boomer leaders to the Kansas line and release them. Once again, Payne was unable to bring his case before the proper authorities to be argued in the judicial arena.

Almost immediately after his release, the boomer leader was planning to invade the territory by summer.

To be continued

[1] A STANDARD HISTORY of OKLAHOMA, by Joseph Thoburn, Vol. 2, p. 583.

[2] David L. Payne: the Oklahoma Boomer, by Stan Hoig, p. 140.

[3] Ibid, p. 146.

[4] Thoburn, pp. 583-584.

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The last invasion caused dissension among the ranks. Many of the Camp Alice colonists agreed that Captain Payne acquiesced too readily when confronted by military authorities. The colonists felt betrayed and charged Payne with running a scam. Of those who stood firm during the invasion and subsequent arrest were W.H. Osburn and William L. Couch.

Immediately after the boomers release on Kansas soil, Osburn disgusted with Payne's actions, split away from the organization to establish his own boomer movement. Couch however, remained loyal to Payne.

Differences between Payne and Osburn continued unresolved for some time. In spite of the rift within the organization, the Oklahoma boomer was planning his next foray into the territory.

The Oklahoma Colony was reorganized with new officers except for Payne who continued to serve as president. In a show of good faith, W.L. Couch along with N.A. McKitrick and William Carlton bound themselves

as sureties to the sum of $500.00 towards J.B. cooper who was elected the new treasurer of the colony replacing E.H. Nugent an Osburn supporter.[1]

William L. Couch soon became one of Payne's active lieutenants. Born November 20, 1850 in North Carolina, Couch migrated with his parents to Johnson County, Kansas in 1866. In 1870, the family moved to Douglass, Butler County, Kansas. Couch joined the Oklahoma movement in January, 1883. Within a year, Couch was one of the prominent leaders of the boomer movement.[2]

Payne continued to speak to groups across Kansas who would listen to him. Leaflets such as the following provided a glimpse of the Boomers plans.

ON to OKLAHOMA !

> An opportunity is now offered to every person desirous of securing a home upon Government Lands, to gratify their wishes a colony has been organized and is still forming for the purpose of occupying that famous country south of Kansas known as Oklahoma Territory. The colony will start for that locality on or about June 25, 1883, and every poor man can now be enabled to provide himself with a home... Capt. D. L. Payne, who has long been agitating the question of the settlement of this country will lecture upon that subject...and will describe the country, efforts made to colonize it, and the present condition and status of the colony. No person who desires to obtain a good home and farm should fail to hear the lecture.3

Large crowds would gather and listen to what Payne would have to say. Many would join the colony on the spot, while others knowing of his past failures only scoffed.

The anticipated invasion set for the June was delayed until August, 1883 when W. L. Couch led the colonists to a point just north of the present site of Guthrie. Payne remained in Kansas while awaiting word of a court decision for an injunction Payne lodged against the military from expelling the boomers from the unassigned lands.

Couch had recently been elected vice-president of the colony. He led 150 colonists in a caravan of 38 wagons to the promise land. While camped of the south bank of the Cimarron River, troops from the Ninth Cavalry charged the camp placing the boomers under arrest. After some indecision on the part of the military commander, the group was eventually taken to Fort Reno. From there after a few days rest, the party was then escorted to the border and released. About that same time, Payne received news that his injunction against the army was denied.[4]

To be continued

[1]David L. Payne Collection, Archives/Manuscripts Division, Oklahoma Historical Society.

[2]Vertical Files, Couch Family Record, Research Library, Oklahoma Historical Society; A STANDARD HISTORY of OKLAHOMA, by Joseph Thoburn, 5 vols., 1916. Vol. 2, p. 590; David L. Payne: the Oklahoma Boomer, by Stan Hoig, p. 140.

[3]David L. Payne Collection, Archives/Manuscripts Division, Oklahoma Historical Society.

[4]David L. Payne: the Oklahoma Boomer, by Stan Hoig, pp. 164-166.

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The recent judicial tactics employed by Captain Payne on behalf of the boomers left Department of the Interior officials and the beleaguered army quite bitter.

Commissioner of Indian Affairs Hiram Price devised a plan recommending to the Secretary of the Interior that the former Black slaves of the Cherokee, Chickasaw, and Choctaw's "whose civic status had never been fixed by the legislative councils of those tribes, should be settled upon the lands of the Oklahoma district...".[1]

The department envisioned that placement of the freedmen, "would have the effect of disposing of the "boomers" as well as provide a means of settling the problem of what to do with the freedmen."[2]

In 1884, the popularity of the boomer movement was undimished. Payne placing great trust in W.L. couch, turned to his able friend to lead the next two invasions. The first was in April where Couch guided a contingent of colonists to Council Grove and Payne Springs. In July, Couch lead a group to Payne's Crossing.

In May, Payne and associate Harry Stafford traveled four miles

south of Hunnewell, Kansas to a point on the Chikaskia River called Rock Falls located in the Cherokee Outlet.

Payne decided to alter his course of action by trying to claim that the outlet was public domain as well as the unassigned lands. For years the outlet was utilized by large cattle operations as a holding area for their stock to fatten up on the luxuriate grasses before sending the herd on to Kansas markets.

Payne claimed that the cattlemen were one of the "organized rings" who wanted to keep the settlers out of the territory. As the Oklahoma Boomer spoke to large groups about his new colonizing efforts, arrangements were being concluded to establish a settlement at Rock Falls. In late July, 1884, T. W. "Dad" Eckelberger led a group of colonists to the site. The first structure on the new townsite housed the boomer news organ the OKLAHOMA CHIEF, formerly the OKLAHOMA WAR CHIEF. [3]

By early August, several smaller structures had been built. By now, Payne had joined the settlement accompanied by his common-law wife Rachel Anna Haines. The Fourth of July was celebrated with picnic lunches, singing, and games. The towns folk had their photograph taken in front of the Chief newspaper office. Payne had taken to drinking once again. A habit he was never able to stop. The boomers health was suffering, he looked weary to his followers.[4]

By mid-July, military authorities visited the fledgeling community. For several days, the army kept the town under surveillance. On July 23, President Chester A. Arthur issued a proclamation stating that it forbade intrusion of the Oklahoma country and warned all intruders to withdraw. [5]

The Cherokee Indians were alarmed by the Rock Falls settlement to the point that Principal Chief Dennis Bushyhead made an inspection tour of the area.

In early August, Colonel Edward Hatch received orders to remove the trespassers. Troops of the Ninth Cavalry moved in arresting Payne, Chief editor J.B. Cooper, Eckelberger, Couch and three others. The two hundred plus settlers were escorted back the short distance to the border. The seven prisoners were marched over the territory by an enlongated route much to the suffering of the prisoners. The group eventually reached Fort Smith.

As before, the trial date was set and then the prisoners released. Payne suffered terribly from the ordeal. The Rock Falls settlement was David Payne's last visit to Indian Territory.

He was in the midst of forming yet another incursion by drumming up support through the lecture circuit. He was on one of his speaking engagements at Wellington, Kansas and was received by a large audience. While staying at the Hotel De Barnard, the Oklahoma Boomer was stricken with a massive heart attack as he breakfasted with Mrs. Haines.[6]

His sudden death sent ripples across the Kansas frontier. News reached Wichita that afternoon. Rumors began to circulate that the boomer leader had been poisoned. An inquest was held December 1, 1884, four days after Payne had collasped and died.

The post mortem examination revealed that, "the heart...[had]...a firm fibrinous clot, or embolism extending from the right ventricle perhaps an inch and one half into the pulmonary artery."[7]

So much had happened since May, 1880. Oklahoma by late 1884 was a national issue. It was now the focus of debate in Congress, constantly on the minds of the tribal leaders of the civilized tribes, and vexed two presidents. The Boomer movement did not die with Payne. The mantle of leadership fell to W.L. Couch. Payne was buried at Wellington with a simple military headstone, marking the grave of the "Father of Oklahoma".

To be continued

[1]A STANDARD HISTORY of OKLAHOMA, by Joseph Thoburn, 5 vols., 1916. Vol. 2, p. 585.

[2]Ibid, p. 585.

[3]DAVID L. PAYNE: the OKLAHOMA BOOMER, by Stan Hoig, pp. 187, 189.

[4]Ibid, p. 190.

[5]Thoburn, Vol. 2, p. 588.

[6]Thomas Athey Collection, Book #1, p. 32, Archives/Manuscripts Division, Oklahoma Historical Society.

[7]O.C. Knowles to T.N. Athey, September 28, 1907, Athey Collection, AMD, OHS.

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With the death of David Payne in late November, 1884, the mantle of leadership fell to the Vice President of Payne's Oklahoma Colony, thirty-four year old William L. Couch.

Couch had proven to be an able leader, twice conducting incursions into the unassigned lands while David Payne remained behind. There was little time to mourn the passing of their fallen leader. The boomers main objective still lay before them...Oklahoma!

William Couch as president of the colony immediately organized a large contingent of colonists to venture into the forbidden territory to settle permanently upon the lands the boomers claimed as public domain.

Two weeks after the unexpected death of Payne, Couch and 200 men moved out of Arkansas City on a southerly course. On December 12th, Couch states that, "We reached Stillwater,...and concluded to stand there, and again test the validity of our claims."[1]

On Christmas day, Lieutenant M.W. Day of the Ninth Cavalry reporting to the Post Adjutant at Fort Reno, stated that he, "arrived at Stillwater yesterday the 24" and upon attempting to arrest Mr. Couch, was confronted by 200 men, armed with double barrelled shot guns and Winchesters.

They refused to submit to an arrest without a resort to arms...".[2]

The tenor of this confrontation easily could have led to needless bloodshed. The boomers more now than ever, resolved to fight for the right to remain on this land. Unlike previous encounters with military authorities when David Payne would put up little or no resistance submitting to arrest, Couch and company were determined not to surrender though blood may flow at any moment. With this fierce resolve, Lt. Day hesitated to order his men to fire upon the group which included several children and one woman. He requested orders before bringing the uneasy situation to a head.[3]

The impasse continued for more than a month. The troops dug in for a seige, while the settlers constructed crude dugouts and awaited their next move. The winter weather hindered the settlers proving to complicate the hardships of what seemed a rather uncertain future.

As the stand off on Stillwater Creek entered its second week and the beginning of a new year, Colonel Edward Hatch, Ninth Cavalry, received reports almost daily of the boomer activites which he monitored the situation at Caldwell, Kansas. Hatch fired off a rather pointed letter to General C.C. Augur, Division Commander, urging the General to seek Congressional action to once and for all settle the question concerning the status of the unassigned lands or provide for stiff penalties for violation of the laws regarding intrusion of the Oklahoma District. As the colonel concluded he remarked that, "it requires little discernment to foresee that it will not be a great while before the resistance must lead to serious loss of life. The remedy is very simple; that until lands are declared open for settlement, any attempt to settle upon them

shall carry withit confiscation of buildings and a penalty of imprisonment."[4]

By late January, the boomer resolve was showing signs of surrender. Rations were getting low. As Couch related to a group of well-wishers later, "we would not submit to being harassed by the military, since we were committing no crime. We...could not make a stand, so we concluded to vacate...without escort."[5]

The colonists returned to Kansas with heads held high. For more than a month, the would-be settlers held off the United States Army with grim determination almost to the point of gunfire. The boomers had now a new undisputed leader...inthat of William L. Couch.

To be continued

[1]The Founding of Stillwater, by Dr. Berlin Basil Chapman, Appendix A, p. 167.

[2]Lt. M.W. Day to Post Adjutant, Fort Reno, December 25, 1884. (National Archives, Microcopy #666, Roll 480, Office of the Adjutant General, Letters Received, Intruders). Hereafter cited Intruder Letters.

[3]Ibid.

[4]Colonel Edward Hatch to Brig. General C.C. Augur, January 7, 1885. Intruder Letters.

[5]The Founding of Stillwater, by Dr. Berlin Basil Chapman, Appendix A, p. 168.

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Soon after the boomers were released at the Kansas line, boomer leader W.L. Couch traveled to Washington to ascertain the position on the matter concerning settlement in the territory of the new administration of Grover Cleveland. It was hoped that there would be a friendly attitude towards the boomer cause. However, President Cleveland issued an executive proclamation on March 13, 1885, "declaring the lands of the Oklahoma country to be Indian lands and warning intending settlers to desist from intrusion."[1]

Disappointed, the members of Payne's Oklahoma Colony were uncertain of their next move. Couch was more resolved than ever to push forward by raiding into the territory once more. In October, 1885, one last incursion was undertaken. But as before, within a few days of settling in the forbidden land, the leaders of the group were arrested while the others escorted to the Kansas line. Within a few days, those held as prisoners were set free.

Congress by this time, was making overtures concerning the unassigned lands. Fearing the worst, representatives of the Five Civilized

Tribes met in conference to forestall any attempts by Congressional leaders to open the territory up for settlement.[2]

In July, 1884, Congress granted authority for two additional rail lines to cross the Indian Territory. Chosen to survey and construct one of the two lines was the Southern Kansas Railway Company and the Gulf, Colorado and Santa Fe. The Southern Kansas Railway Company was an affiliate of the Atchison, Topeka and Santa Fe (AT&SF), headquartered at Topeka, Kansas.

Three routes were surveyed. The least expensive route was chosen which had the northern terminus leaving Arkansas City. Intense competition for the road leading north out of Texas ensued as the Gulf, Colorado and Santa Fe (soon to become an affiliate of the AT&SF), began preparations to survey a route to connect with the Southern Kansas.

In August, 1886, work began on the route out of Arkasas City. Crews had been gathering for several weeks including sub-contractors. Among this latter group was W.L. Couch, T.W. Eckelberger and other prominent boomers.

As construction workers with the railroad, the boomers now had legal entry into Oklahoma. This allowed Couch and company the opportunity to travel and work unmolested in the territory.

Work continued through the fall of 1886, with as many as 5,000 to 6,000 people laboring on the road.[3] Progress was slow during the early months of 1887. In March of that year, the Southern Kansas issued names to some of the points along the route. Names such as Willow Springs which eventually became Perry; Alfred which was changed to

Mulhall; Deer Creek became Guthrie in honor of Judge A.B. Guthrie, a stockholder in the rail line; Verbeck later became Moore and so on.[4]

All the while, the boomer leaders had unlimited opportunities to tour the countryside and map out choice sites for homesteads or future townsites. It seemed only a short period of time before the lands would finally open to settlement.

To be continued

[1] A Standard History of Oklahoma, by Joseph Thoburn, Vol. 2, p. 592.

[2] Ibid, pp. 595-596.

[3] Railroads of Oklahoma, edited by Donovan L. Hofsommer, p. 24.

[4] Ibid, p. 26.

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W - Part 48

With the stroke of a pen, President Grover Cleveland signed into law, the Indian Appropriations Act of 1889 in the remaining days of his administration.

With his signature, word declaring the unassigned lands as public domain and now unencumbered by Indian treaties, sent the Kansas border towns into wild jubilation.

However, the ink was barely dry before settlers, mostly boomers, clamoured for the new president, Benjamin Harrison, to issue a proclamation setting a date to open the much sought after land. The principle reason for immediate action was largely due to the fact, that the spring planting season was in progress. To delay further would place the homesteaders in peril of starvation by not getting a crop planted in time.

The twenty-third president assumed the office on March 4, 1889. After a series of earnest memorials were directed to the new leader urging immediate action.

A few loose ends had to be finalized, but finally on the 23rd of March, Harrison issued a proclamation which stated in part that;

"Whereas, by section twelve of the act...a sum of money was appropriated to pay in full the Seminole Nation, [and Muskogee Nation],...for all the rights, title, interest and claim which said nation of Indians might have in and to certain lands ceded...release...to the United States of all right, title...of said...lands.

Whereas, said release and conveyance, bearing date the sixteenth day of March, eighteen hundred and eighty-nine, has been duly and fully executed, approved and delivered; and

Whereas, section thirteen...provides as follows:

that the lands acquired by the United States under said agreement shall be part of the public domain...,

Now, therefore, I, Benjamin Harrison, President of the United States, by virtue of the power in me vested by said act of Congress...will at and after the hour of twelve o'clock, noon, on the twenty-second day of April, next, and not before, be open for settlement...". [1]

Those last few words were electrifying! At long last, a date and time had been set, Oklahoma was finally going to be settled.

To be continued

[1] The Oklahoma Red Book, Compiled by Seth K. Corden & W.B. Richards, Vol. 1, 1912, pp. 423-425.

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On Dona's disk

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Part 49

They came from every state in the union. From the well-to-do industrialist to the down-and-out sod buster, all looking for that one piece of land to expand or begin a new.

The days following President Harrison's proclamation opening Oklahoma to settlement set in motion, a wave of humanity descending towards the border towns in Kansas such as Arkansas City, Wellington, Caldwell, and Wichita. The tiny community of Purcell, Chickasaw Nation saw its population mushroom from a few dozen residents to several thousand in the weeks preceding April 22nd.

Merchants in these communities, reaped huge profits from the sale of equipage and livestock to those settlers who were willing to pay the price. Men, women and children of every description, migrated towards Oklahoma. One such landseeker was Edward W. Osburn, who lived northwest of Wichita in Sedgwick County Kansas.

Descendants of Osburn donated his notebook-diary to the State Historical Society more than twenty years ago. Recently rediscovered,

Osburn's day-to-day activities preceding and immediately following the land run, is published here for the first time verbatim using the peculiarities of spelling recounting Osburn's odyssey to Oklahoma.

April 15-Worked hard all day getting ready for trip-left Sand Hills at 4-35 P.M. Burrton at 9-15. Reached camp 12 midnight. Camp 4 south, 2 west of Mt. Hope, Sedgwick Co. Kansas.

Tuesday, April 16 - Brake camp 6-45. There are eleven wagons in two trains-light rigs except one 4-mule team. W.H. (this person is never identified), and I are in a cart homemade on rake wheels and a span 3 year ponies. We take the lead. Camped noon, 1 east, 2 south of garden plain. This PM the company kept up a ground fire - much game. Took in 1 rabit - 1 quail - 1 phesant [sic]. Crossed the Nineska (Ninnescah) at Clearwater. 2 hrs by sun and camped south - having traveled 30?. The day was pleasant. Beautiful country - threatening rain.

Wednesday, April 17 - By urgent invitation we went to tent. Fearful storm at midnight - took the tent away, hailed & rain terific. Being provided with with beef robe & oil cloth we kept nearly dry - until the wind changed from N.W. to S.E. when our bedding blown off. Then by the lightning flashes we found a stable, wet as out of doors. W.H. with comfort & cloth, I with buffalo robe. Found shelter at a small straw-stack from the wind -storms raged for 1 1/2 hrs. Made our bed & slept with little interrupting until 6 A.M. when we were compelled to take refuge in a farm 1/2 mile away. I am now writing in the barn at 7-30.

Leaving camp 8 A.M. Traveled 8 or 9 miles - camped for more roads heavy & drains full of water - most ? bed - at noon all hands dried his bedding and clothes. Still traveling S.E. - clear at noon 1 hr. W.H. had his hat blown away in last night's storm - one has was floated away butfound. Passed through Wellington, Sumner Co., ?. 5 & 6 PM bot oil cloth 2 yds. (75cts). Camped just before sundown 2 1/2 miles due south of Wel. Had our two oil cloths sewed together - now we have a cloth 6x9. Looks like storm. Been suffering with dihareah all day. Exps. for dy. $1.00. Sent Ward home.

Thursday, April 18 - Camp. Storm, but rain & cool - we kept quite warm under our new tent W.H. brot me breakfast - still in bed camp ready to move 7 A.M. Cool - cloudy. Roads fearful bad. Camp - South Haven. ? through the state in fine shape - Sumner Co. has finest prospect for wheat & fruit. Camped 11 A.M.. Brake camp 3 P.M. Camped 1/2 mile S.E. from Honneywell. The Shakaskia river (Chickaskia) is full more than 100 wagons waiting. rainy in eve.

Expenses - 72 - Sugar, 7 @ 10
22 - 2/cans, Oats
94

April 19 - Moved 7 A.M. through Honneywell down 5 m. to Schakaska River. Water midside or more - letting the wagons down by rope. 150 or more wagons waiting. Crossed in about 1 hr. Narrow swift - no hapening ex. one double tree broke. Crossed a high divide & at 3:30 P.M. came to Salt Fork, waters up slowing some teams - but change teams to heavy wagons - passed nicely - were some 3 hrs. crossing - put grub

and clothing on big wagons & so were over nicely, This is a wide sandy stream. Camped 1/2 mile from the ford, a little before sundown. 500 wagons had crossed - 300 waiting. [1]

To be continued

[1]Edward W. Osburn Diary, Archives/Manuscripts Division, Oklahoma Historical Society.

Oklahoma County Historical Society

Home of the
"Museum of the Unassigned Lands"
4300 North Sewell
Oklahoma City, Okla. 73118

Foot notes the Dances as Words

History of the Unassigned Lands

by

William D. Welge

Part 50

We continue with the journal of Edward W. Osburn of Kansas, who made the Run of 1889 into the unassigned lands looking for a piece of land he could call his own.

April 20-Started 2:30 A.M. Camped for breakfast at sun up for 1 hour on tributary of Red Rock. The place of present writing. Passed on some 5 or 6 miles from Red Rock. Camped 30 mile south of Fact & 27 north of Uncertainty. Water the worst yet/red & dirty all after-noon. Traveled over high ???-timber ???. Camped before sundown on a tributary of the Beaver from 1/2 to 2 miles from Oklahoma line. 13 wagons, 4 horsebackers. On the way we see men & families in all sorts of conveyances - horseback, cart, buggy, single horse wagon - light & heavy 2 horse wagon on to the heavy 6 mule teams. Passed one family stopped with a fresh cow of a night - colts, calves, chickens. Mrs. Daily of our crowd has Lard & chicks. Mrs. Daily is the only woman in the outfit. There are many boomers camping on the two little streams heading into the OK land. Some wagons are turning back fearing they will loose their rights by going too far. Now tired, hungry & sleepy we are camped in a pleasant, grassy place with plenty of good water - for the Sunday. Some have gone turkey hunting.

Sunday, April 21-(it should be noted that this was Easter Sunday. President Harrison had delayed the opening until after to Easter due to his religious convictions.) Splindid nights rest, up late - corn cake, dried beef with soup & tea. At eleven A.M. Rev. Ashmon of the U.B. Ch. (probably United Brethren Church), preached for the Boomers. Text Hebrew 13-14, ('For this world is not our home; we are looking forward to

our everlasting home in heaven').[1] After dinner W.H. and I walked a couple of miles east & soon had a trail made coming to us. There we moved south 1 1/2. Soon had another camp - from these places we see hundreds of Boomer wagons moving in every direction. Some moving forward, some going back, some cross trailings. 5 P.M. Two soldiers (Jiglers) come on to us & order us back to wire fence 2 or 3 miles- we see one train of wagons - escorted by soldiers - 7 miles long - coming back. The whole country in an uproar. Some teams are so jaded that they cannot walk steady. One of our boys brought in a wild turkey. A dozen or more men gathered at our camp. Singing until near midnight. 2 soldiers are in the camp for the night. This camp is named Camp Gertrude for Gertrude Daily the only girl in the camp.

One can only imagine the scene as the sun rose on that fateful day. Thousands had gathered from all over the country and from Europe as well to take part in a history making event. Never before had such an enterprise been undertaken by the federal government with equally little preparation and enormous confusion after the fact.

As the morning wore on, men, women and children grew anxious awaiting for the sun to move over head and the signal to start the rush for homesteads. Grim determination was etched into most every face that took their place along the borders that day. Families hoping for a good piece of land to begin a new life, the nearly starved granger who had so much bad luck back home, hoping to turn this into the good luck he needed, opportunists who saw a fortune to be made off the hapless farmer, they all were there along with Edward Osburn, constantly looking at there time pieces, peering into the endless horizon, watching anxiously for that signal, oh when would noon ever arrive!

Osburn writing in his journal states, Camp Gertrude. All hands anxious & ready for the move. Boomer wagons are clicking all around. Trains of 6 to 20 wagons are moving west just south of us. Some wagons

are camped south, some are moving back north. Beautiful morning. The men are now making a crossing at the little stream, ready for the move in case we are not ordered back we all expect a race. Left our camp for the drive 11:50 A.M. Such a pel mel race. We reached the main trail ahead of the main rank. Signal had been given by firing of guns along the line. When we had reached the top of the ridge. Standing on top of Mr. Boons wagon I saw probably 2,000 wagons-trains 5 to 8 miles in length, hundreds of horsemen at a dead run. Carts, buggies, light wagons. Everything at break neck speed. Drove some 18 miles in 1 hr. 50 min. One buggy and a few horsemen passed us - when we reached Ephriam coralled the horses & the crowd broke for the Cimaron bottoms & secured claims, I stayed in the wagons in less than one hour 71 cars crowded passed, (no doubt he means railroad cars), from the north. On the platforms, coal tinders on top of cars. Men jumped from the train & paid my claim. Although first from the line we found the best claims taken. Cowboys & C. were hid & came up like boys from a spring board. Some dared they made the trip in 15 or 20 min. One man was found on a claim who had wagon, cow & calf, colt & c. ready to plant corn who stated that he made the trip in 20 min. from the line - 18 mi. The racing continued all day - the air was fogged with dirt. Started back to Camp Gertrude at sundown but did not get in until one the next morning having lost our way on the prarie [sic]- The country traversed is mostly highly or broken ground- there is much firm rich land. Splendid contry [sic]. 2

To be continued

Hebrews

[1]The Bible, Chapter 13, Verse 14.

[2]Edward W. Osburn Diary, Archives/Manuscripts Division, Oklahoma Historical Society.

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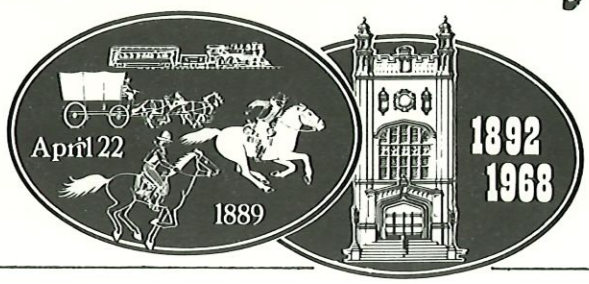

History of the Unassigned Lands

by

William D. Welge

Doris News #2

Part 51

Oh, what a glorious sight! Dust billowed high into the air, choking the late comers dashing into the clouds of dirt searching for that treasured parcel of land. As April 22 slowly came to an end, over 50,000 persons had plunged into a vast new territory. Thousands that first day had immediate success, others thought they had achieved success only to be rebuffed by persons emerging from ravines or clumps of bushes. How could anyone get here in so short of time many asked? To quote the Oklahoma Gazette in its first issue to the general public, it more or less answered how the "Sooners" were able to secure choice claims by stating, "and Satan took him up into an exceeding high place and showed him the whole valley of the Canadian, and said all these have my deputy marshals staked before noon of April 22, 1889."[1]

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Edward Osburn not to be undaunted by not securing a claim that first day, pressed on in search of land not staked in the mad dash. His journal continues the following day...Tuesday, April 23 - Up & off for Ephriam by 7 A.M. We hear of some troubles today, one man shot with a Winchester. Turkey for dinner. Afternoon drove N.W. locating some more claims. Now 8 have claims. Shot a young buck but did not get him - only

turned him. Have seen 2 deer & some turkey. Now in camp, most asleep, 5 or later. At dark we go into camp at the Kuhu Camp. Took grub with them. After dark came up a hard rain which lasted only a few moments.

Wednesday, April 24 - Started for Guthery 7 A.M. Met J.W. Robinson who was hunting a claim. W.H. went with him to hunt. Soon found seven wagons of the colony struck for home via Arkansas City? Some are on the staked - some on the hunt. Kuhus are planting corn & potatoes - done some work on my claim S.E. 1/4 Sec 35 - Town 18N. Range 3 West. (Located on Ephriam Creek, northwest of Guthrie about 5 miles). Started a well & house, put up notice on tree. Spent the night in the Kughu Camp. W.H. found eleven turkey eggs, gave them to Kughu.

Thursday, April 25 - After a peck of trouble we got to Guthrie. What clouds of dust. (Guthrie was one of two locations for the Land Office where claims were to be filed. The other Land Office was at Kingfisher). Jams 25 to 30 thousand people - 3 days old! - stood in line 2 hr. 30 min. for mail. Probably 100 houses building. Thousands of tents. Wagons for miles. No whiskey - ? guilt. (It is hard to believe no liquor in a boom town as Guthrie, because it had several saloons immediately after the run). Land office near 1000 behind, caring for 70 to 80 pr day. Water $1.00 pr barrel - 25 cts - a bucket - 5 cts a drunk. Corn 50 cts - hay 75 pr bail - bread 10 cts - a biscuit 4 for 25. Lawyers, Drs., drugs - groceries - everything on the ground - & all the lemonad one can hold for 5. We got in a jam for an hour & 1/2 at the R.R. station, had fun. Everything in a jam & everything behind. 2 or 3 sections laid off in town lots. Teams, wagons & c[arts or carriages] for sale - crossed call on way west drove 5 or 6 miles & camped. Expenses 60 cts.

Friday, April 26 - On our way 1 hr by sun on to Kingfisher - the western land office - hundreds of wagons on the road to Guthrie. At noon a sand storm set ice from the N.W. Terrible - Kingfisher one cloud of dust - a little jam here. Sand storm compelled us to put in camp early before night. This has been one of the worst days. 40 to 50 miles from G. (Guthrie) to K. (Kingfisher). Camped in the Kingfisher Cree early in P.M. Passed claim on which was this important notice TO A KING! [2]

To be continued

[1] OKLAHOMA GAZETTE (Oklahoma City), May 21, 1889.

[2] Edward W. Osburn Diary, Archives/Manuscripts Division, Oklahoma Historical Society.

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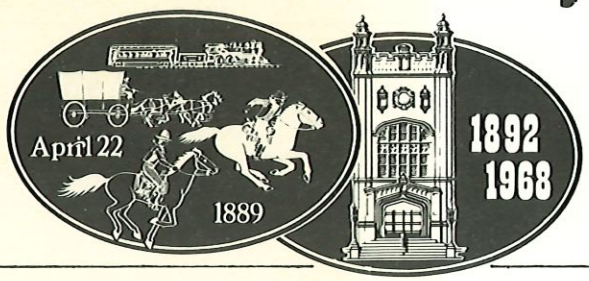

History of the Unassigned Lands
by
William D. Welge
Part 52

If one could endure the tedious wait in the endless lines at both land offices in the new territory, one usually was endowed with tremendous patience. After so long a period, one was rewarded by finally stepping into the small wooden shack and registering his or her claim.

Deals out of frustration were often struck between the haves and the have nots. Perhaps that is what happened to Edward Osburn. He recorded in his diary at his dismay at the long lines of claimants waiting to record their parcel of land at the Guthrie land office. Osburn pushed on to Kingfisher where much the same scene was repeated.

Investigation of the Federal Tract Books, some 72 volumes, which are located at the State Historical Society Library, reveals that Osburn did not file on his claim on Section 35, Township 18, North, 3 West. He apparently struck a bargain to his liking. If this is the case, Osburn did not record the transaction in his diary. Reading the remaining pages of his brief journal, Osburn it seems, returned to his home in Sedgwick County, Kansas resuming his farming activities and enjoying seeing his wife once more. After traveling for more than a month in Oklahoma Territory, Osburn fades into obscurity satisfied he had witnessed as well as par-

ticipated in one of the greatest adventures of his life.

If Osburn left rich in the experience, many remained to forge a new life. If Rome was not built in one day, Oklahoma City, Guthrie, Edmond, Moore and others were,...literally!

One week after the run, Irving Geffs, better known as "Bunky", chronicled the events surrounding the birth of Oklahoma City. He remarked that, "work on buildings went rapidly forward and men who could not drive a nail in the ground secured employment as carpenters at good wages. The streets assumed shape and many new business enterprises were established. To leave a familiar locality for a few hours was to never find it again, so rapidly did the face of the young city change."[1]

The turbulent period of growth and adjustmentof this frontier town from territory to statehood will have to wait another author. Suffice it to say, there was considerable activity in central Oklahoma than what has been previously mentioned in history books.

The birth of a territory does not happen without tremendous sacrifice. The men and women laid the groundwork a century ago for others to build upon. One can only imagine what successes lay ahead one hundred years from now.

The End

[1]The First Eight Months of Oklahoma City, by Bunky, Oklahoma City, The McMaster Printing Company, 1890, p. 16.