STORY OF OKLAHOMA.

The Interesting History of the Proposed Territory.

A Shameful Tale of Fraud, Outrage, and Murder.

Secretary Lamar and the Cattlemen.

A Sham of the Cleveland Administration.

Senators Vest and Cockrell as Cattle Lobbyists.

Railroads Originated the Boomer Movement, and Payne and Other Leaders Were in their Pay—The Cattlemen Were the Only Opponents of the Movement Worth Mentioning, and Somebody Was in their Pay—The Story of the First Invasion—Real Estate Speculations that Did Not Pan Out—The Sale of Stock in Town-site Companies—The Honest Boomer Got Bit on All Sides—Life Among the Boomers—Murdered by Cowboys—Larks the Cattlemen Enjoy.

PURCELL, Indian Territory, Feb. 12.—Just north of the limits of this village the southerly bank of the Canadian River, on which the village stands, rises into a bluff that towers 800 feet above the yellow sand of the river bed. Red clay, red sandstone, and red loam, layer on layer, are piled up, with a crown of faint green-gray grass over all—a picturesque knob, the highest point for miles around. It is not until the traveller sees such bluffs as this that he is fully able to appreciate the term broken land which Western people use. It looks as if it might have been a ridge from which one side had been cut away and the remainder had then been bent around until it split open into chasms and gulches, with precipitous blood-red sides. The effect on a novice is startling.

On the back of this bluff the sod slopes down gradually. Here lies a trail that winds around and down to the village. It has been worn through the grass by the oft-repeated visits of citizens and strangers alike who come on foot, on ponies, and in vehicles of every sort to enjoy the picture which nature has spread out before this bluff.

At the foot of the cliff there is a narrow meadow land. Then comes the broad belt of yellow sand, with here and there patches and threads of water, that forms the river bed, with a fringe of scraggly trees to mark the further bank. Beyond this is another narrow grassy bottom land, and then begins the gentle slope that rises and swells in countless undulations and knolls, league on league, to the ragged line of the timber-covered ridge that marks the horizon. Everywhere trees and shrubs dot the knolls and valleys, or stretch away like hedgerows, or spread out in clumps and groves that look in the hazy distance almost like cloud shadows lying on the yellowish brown prairie grass.

Even the stolid Chickasaw Indian, who sometimes goes to this bluff on the Canadian and gazes on the scene spread out before him, is compelled to express his admiration. Opening his lips, he says:

"Oklahoma"—beautiful land.

This towering bluff on the banks of the Canadian is the Mount Nebo of a mighty host of homeseekers' and Oklahoma—the Chickasaw term for a pleasing landscape—is the name of their Canaan, which lies just beyond the sands of their River Jordan.

For ten years the people of the United States have been reading that word Oklahoma in the newspapers. They have read of men called boomers who tried to enter the land called by that name. They have read that these boomers were people who were wickedly contriving by stealth or force to go in contrary to law and rob the Indian owner of the land of his inheritance. They have read that the soldiers of the nation had foiled these lawless attempts, whereat the people have rejoiced, and have made of the word boomer a term of opprobrium.

Within the past year they have read that a bill has been introduced in Congress making of a part of the Indian Territory a new Territory, to be called Oklahoma, and that this bill has been opposed in a most determined manner.

To learn the facts and the rights in the Oklahoma matter and write a truthful history of the early efforts to open what must, sooner or later, become a great State in the American Union, a SUN reporter was sent to the Territory itself, where the Indians who claimed it and the boomers who wanted it could be seen, and all the contending parties could be heard. A careful inquiry has been made, Government as well as local records consulted, and doubtful statements investigated.

The story which has thus been obtained is not cheerful to contemplate. It is a story of cunning deception and fraud. It is a story of rich men who led poor men into distress to further lawless schemes for gain. It is a story of patient endurance of great hardships in a cause that, though conceived in fraud, was well nigh just—perhaps was altogether just.

It tells further of the opposition which other rich men made to these schemes—men who posed as philanthropists and the protectors of a downtrodden race; men who were in some way able to control a department of the American Government during three administrations, and thus keep the American army at their beck and call. Worse yet, it tells of one life lost through unnecessary harsh usage, and of four others that were lost through deliberate murder. Incidentally reference is made to a novelty among the sinful pleasures of life.

The Oklahoma idea was born in a railroad office. It was wet nursed by a broken-down politician. It was fed by a gang of reckless real estate speculators. It was borne by a host whose characteristics must excite at once the pity and admiration of the reader.

It was hunted down by cattlemen, who had grown rich by fraud, and was tortured until it well nigh died of exhaustion. That it has survived and is now just blooming into maturity is due to the tireless pluck of the American frontier home seeker, stroller though he be.

The Oklahoma citizen, who in future will write a history of his State, can find here the facts for the earlier chapters of his work.

CHAPTER II.

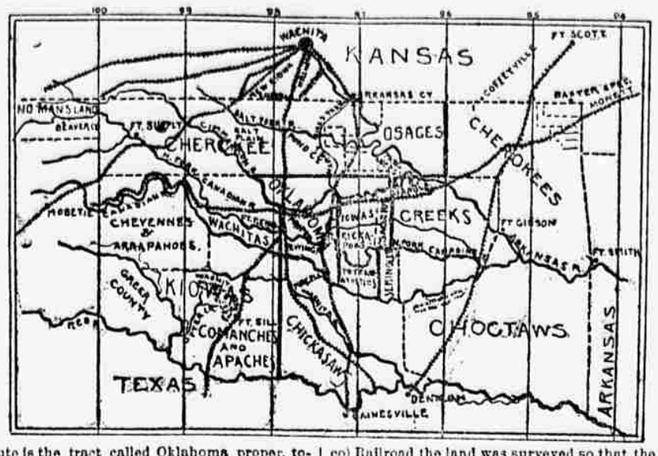
THE OKLAHOMA OF THE BOOMERS.

The original Oklahoma of which the people have heard so much is only a small part of the future Territory of Oklahoma. It contains only 1,887,800 acres of land, while the new Territory will aggregate 23,267,719 acres. To show where the original Oklahoma lies, as well as the bounds of the new Territory, a map has been engraved. It is really a map of the Indian Territory and No Man's Land together. Oklahoma proper, as the boomers call it, lies very near the centre of this territory. The new Territory will embrace the western half of the Indian Territory, and include No Man's Land, with an area of 3,672,640 acres, as well. A glance at the map, as printed, will give a better idea of the location of the new Territory than half a column of description without it.

As the reader will remember, the Indian Territory was a part of the old Louisiana territory, that included 757,000,000 acres of land purchased from France in 1803 under the Administration of Mr. Jefferson. The public land strip known as No Man's Land was ceded to the United States by Texas when she was admitted to the Union, and was therefore originally a part of Mexico. The story of the curious blunders by which No Man's Land was omitted from all existing judicial districts and left absolutely without law need not be repeated, especially as no one worth consideration objects to the extending of national authority over that domain in a way that will preserve order and protect the actual settlers from wealthy land thieves.

But because a great part of the land of the new Territory is held by Indians whose title is beyond dispute, and because another part is held by the Indians, although claimed by thousands of Americans as public land, with a clear title vested in the United States, an abstract of title of these lands ought to be made in order that the reader may judge of the case.

The land about which there is an Indian dispute is the tract called Oklahoma proper, together with the Cherokee outlet, the bounds of which are shown in the map. Since Oklahoma proper was the part over which the dispute first arose its story may first be told. Having been a part of the Louisiana purchase the title to the land was unquestionably vested after the purchase in the United States, and so remained until the United States relinquished its title. By the act of Congress of May 28, 1830, the United States began to relinquish this title. That act authorized the President to set apart a certain tract of country which was to be divided up for the use of Indians, and the tract so set apart is now known as the Indian Territory. This act was supplemented by various bargains and treaties, according to United States District Judge J. C. Parker, who has passed on the title to these lands, as will be told further on, by which the greater part of this Indian Territory was conveyed to five nations—namely, the Cherokees, Choctaws, Chickasaws, Creeks, and Seminoles. By the authority of the act named the President gave a certain well-defined tract to each tribe and put the tribe in possession of the tract assigned to it. Oklahoma proper was a part of the tract assigned to the Creeks in a treaty which was concluded with them on Feb. 14, 1833. The land was patented to the Creek Nation, and, what is under the circumstances of still more importance, the treaty expressly provided that the lands thus patented should be forever free from having the laws of any State or Territory extended over them.



Nobody doubts that the land at that time became the property of the Creek tribe, and it so remained without dispute until Aug. 7, 1856. On this day a treaty was concluded with the Creeks by which "they conveyed these lands (including, of course, Oklahoma proper) to the Seminoles, provided, however, that the same should not be sold or otherwise disposed of without the consent of both tribes legally given." Thereafter the land may be said to have been held in partnership by both tribes. It so remained undisputed until 1866.

The reason for the treaty made in 1856 is unimportant. The motives behind the treaties of 1866 are interesting. The treaties were made during the booming days just after the war.

On March 21, 1866, the Seminoles made a treaty, in the third article of which is the following language:

> In compliance with a desire of the United States to locate other Indians and freedmen thereon, the Seminoles cede and convey to the United States their entire domain.

Their entire domain included, of course, what is now called Oklahoma proper, besides a lot more to the east thereof. A part of the land lying to the east was reconveyed back to the Seminoles, and now forms the Seminole reservation. The rest was used for reservations for the Pottawatomies and other tribes.

The conveyance to the United States in this case was made for a consideration. The Seminoles sold their entire domain, which consisted of 2,169,080 acres for $325,362, which was at the rate of 15 cents an acre. The reservation which they bought back contained 200,000 acres, and they paid $100,000 for it. That is, they got $225,362 for their equity in Oklahoma proper and the land since sold to other tribes, and the only cloud according to the letter of the law which any one says rests on this conveyance of title to the United States is contained in these words of the treaty:

> In compliance with a desire of the United States to locate other Indians and freedmen thereon.

Of course, a quit claim had to be obtained from the Creeks, and this was done by the treaty of June, 1866. The Creeks received a cash consideration for their equity, but the treaty had exactly the same clause about the desire of the United States to locate other Indians and freedmen on the land.

There is an interesting fact, however, back of this treaty. The statement that the treaty was made in compliance with the desire of the United States to locate other Indians and freedmen on the territory ceded was a deliberate lie. It was a deliberate attempt to obtain property by false pretence. Within four months after the conclusion of the purchase by the United States—that is, on July 25—a bill was literally railroaded through Congress by which the Atlantic and Pacific Railroad was granted a right of way through the land so purchased, and every odd-numbered section of land for forty miles on each side of the railroad was given to the company. The lands were bought that they might be thus given to the railroad. There is no doubt that could all the facts pertinent to the case be brought out in a court of justice the title in fee to Oklahoma proper would revert to the Creeks and Seminoles on the ground of fraud and misrepresentation in the transfer, but no such case will ever be heard in court.

As to the law in the case as it reads, Judge Parker, in passing on the matter, says:

> To my mind this language used in the third article of the Seminole treaty amounts to a conveyance of the title of the land described to the United States.

That the land, however, was not by this purchase thrown open for settlement is plain, he says, for this reason: The Homestead and Preemption laws explicitly provide that no lands can be so entered that have been lawfully reserved. These lands having been lawfully reserved, that reservation could not be set aside except by a clear and explicit act of the lawful authority showing a purpose to open the lands for settlement. In the case of Oklahoma proper no such act has ever been made or passed. Therefore, Oklahoma proper, according to the Justice, is not and never has been open lawfully to settlement.

It is interesting to note, however, that the treaty by which this body of land was reserved was made by the President of the United States. Judge Parker decided that the President was competent to reserve the lands. The President must, therefore, be competent to open the lands for settlement now that the fee of the lands is in the United States. Therefore, all that is necessary to open Oklahoma for settlement is a proclamation by the President ordering it to be done.

It is further of interest to note that immediately after the purchase of the land by the United States and the gift of the alternate sections to the Atlantic and Pacific (now the Frisco) Railroad the land was surveyed so that the gift could be completed. Had the railroad completed its line there would never have been any Oklahoma boomers or Oklahoma territory.

Another point concerning the title of the United States to Oklahoma proper remains to be considered further. That is the statement about the desire of the United States to settle other Indians and freedmen on it. It is, according to the Indians, as if a citizen should buy a town lot in a reserved block in New York city, and it should be stated in the deed that the lot was purchased because of the desire of the purchaser to erect a house on the lot. If, after having purchased the lot under such terms, he should begin to erect a double-deck tenement, the court would issue an injunction at the request of the neighbors or of the seller of the land. Oklahoma proper could not be purchased for the use of Indians and freedmen and then given to the use of white men against the wishes of the Creeks and Seminoles. The Creeks and Seminoles still have an equity in justice, the Indians say, in Oklahoma proper, whether they have according to the letter of the law or not.

It is a fact, but one of no great importance in considering this subject, that all of these Indians threw off their allegiance to the United States and joined the Confederates in 1861. But whatever part of their rights in this land was lost by that act has been restored by the treaties since made. Besides, the lands of white Confederates were not confiscated.

CHAPTER III.

THE TITLE TO THE CHEROKEE OUTLET.

The man who does not heartily sympathize with Southwestern ideas about the opening of the Indian Territory lands for white settlements—that is, the man who remembers somewhat of the treatment which the Indians have received at the hands of the whites, and, remembering it, wishes to have the Indians dealt with generously rather than with scant justice, as the so-called Southwestern civilization would do—is startled by the Southwestern talk about the title to the Cherokee strip. This talk is nothing but an oft-repeated statement that the Cherokee strip was given to the Cherokees as an outlet or roadway from their home reservation to the hunting grounds of the Rocky Mountains, and that since there are no more hunting grounds there is no more use for an outlet, and therefore Congress has a right to take the strip for the use of the white man.

MOUNT WEBSTER, THE HIGHEST OF THE WICHITA MOUNTAINS.

The facts in the case are easily stated. The Cherokees were removed west from Georgia because gold had been found on their reservation there, and the white man must have that gold. They were eventually settled in their present reservation by a treaty of 1828. The second article of this treaty, after providing for them 7,000,000 acres in the northeast corner of what is now the Indian Territory, says:

> In addition to the 7,000,000 of acres thus provided for and bounded, the United States do further guarantee to the Cherokee Nation a perpetual outlet west *and free and unmolested use* (italics not in the treaty) of all the country lying west of the western boundary of the above-described limits, and as far west as the sovereignty of the United States and their right of soil extend.

The limit of the United States was the 100th meridian at that time. Later a patent to not only the 7,000,000 acres in the northeast corner of the Territory, but also to the outlet, so-called, was issued. This patent was dated Dec. 31, 1838. The whole Territory thus conveyed by the best title known to American dealers in real estate was 14,374,135.14 acres.

That area has since been reduced by purchase, but when the Western editor who is getting out a boom edition of his paper, as Western editors frequently do, comes to these figures, he simply gets up and humps himself, and tears the earth like a bucking broncho with a tenderfoot in the saddle. Shall 22,000 Indians possess all that land, while men who fought for their country are aching for homesteads? The editor must not be thought of harshly, however, for even members of Congress, like Mr. C. H. Mansur of Missouri and Major Warner of Kansas City, have in like manner humped themselves and torn up the earth.

By the treaty of 1866, after the Cherokees had got back under the protection of Uncle Sam, the old guarantee was renewed, with a proviso as follows:

> The United States may settle friendly Indians in any part of the Cherokee country [not *outlet*, notice] west of the 96th meridian. * * * said lands thus disposed of to be sold to the Cherokees at such price as may be agreed upon, subject to the approval of the President. * * * the Cherokee Nation to retain *the right of possession* and jurisdiction over all of said country west of 96 degrees of longitude until *thus sold* and occupied.

A recital of the words, "the right of possession of," to a Southwesterner makes him feel sorry for the crank philanthropist who can't understand the needs of Southwestern civilization. It must be said, however, that even the Southwesterner, if intelligent, will, when compelled to answer, say that "technically the Cherokees have a right to the strip."

As already stated, there is no real dispute about the title to the rest of the land which will go to make up the new Territory, except, perhaps, a piece of territory lying between the two main forks of the Red River and east of the 100th meridian. This land the Texans call Greer county, and claim it as a part of Texas. Uncle Sam says it is public land that is not now reserved for the Indians.

As good a lawyer as Col. E. C. Boudinot, however, believes otherwise as to some of the land, and he is backed by other able lawyers. The Colonel is himself a Cherokee, and cannot, therefore, be accused of prejudice against the Indians. Concerning the reservations occupied by the Cheyennes, Arrapahoes, Kiowas, Comanches, and Apaches, he said, in a letter dated March 31, 1879:

> By executive order, Kiowa, Comanche, Arrapahoe, and other wild Indians have been brought upon a portion of the ceded lands, but such lands are a part of the public domain of the United States, and have all been surveyed. * * * The United States have an absolute and unembarrassed title to every acre. *The Indian title has been extinguished.*

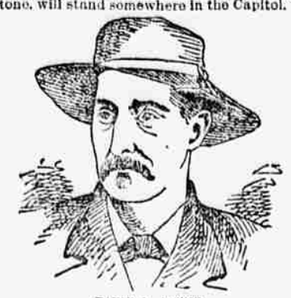
The italics are the Colonel's. The facts are that these reservations were a part of the land originally patented to some of the five tribes already mentioned as having been located in the Indian Territory in 1828. Patents to the lands were issued. Then, by subsequent treaties, the land of these reservations was bought for a price and the title reverted to the United States. Then the land was set apart for the use of the wild tribes who now occupy it, but it has never been patented to them. While the fee remains in the United States, no act of Congress or of any President has ever opened them for settlement. On the contrary, the Cheyennes and Arapahoes were by treaty on Aug. 19, 1868, located there, while on Aug. 25, 1867, the Kiowas and Comanches were placed on their reservation.

CHAPTER IV.

THE ORIGIN OF THE BOOMERS.

The testimony concerning the causes that led to the attempt to force white settlements on the original Oklahoma is conflicting. The seeker for the history of the movement will hear all sorts of stories. He will be told that the boomers, including the leaders, were honest American citizens who had gone broke and were seeking homes on the only Government land left for the settler that was worth occupying. He will be told that while the mass of boomers were honest home-seekers, a few leaders were simply after the dollars which the masses had to pay in order to become members of the various colonies that were organized to take the promised land. He will also be told that some of the leaders were in the pay of certain great railroad corporations who had an interest in the opening of the Territory. When he hears this last statement, he wants to listen attentively—he is getting pretty close to the bottom facts.

It is everywhere in this country conceded that the original Oklahoma boomer was Capt. David L. Payne. It was he who first went about on the Kansas border of the Indian Territory, and told the people of a certain rich inheritance to which they were entitled over in the heart of the great Indian reservation. Although none of the colonies that have gone into the Territory to make a settlement has yet named its proposed town site Payne or Paynesville, nevertheless the old boomers hold Payne in kindly remembrance, and it is absolutely certain that when, in the near future, Oklahoma becomes a populous and prosperous State, as it is certain to do, a statue of the original boomer, chiselled from Oklahoma stone, will stand somewhere in the Capitol.



DAVID L. PAYNE.

Capt. Payne was born on a farm in Grant county, Indiana, on Dec. 31, 1836, and lived there until the spring of 1858. He received a common country school education, and is said to have been a bright lad and rather above the average as a pupil at school.

In 1858, being then a little over 21, he started West to fight the Mormons, there having been at that time a now-forgotten trouble with the Latter Day Saints. He got as far as Doniphan county, Kansas, and there found that the excitement was over.

Thereupon he became infected, as most people do on the frontier, with a desire to grow up with the country. Having a little money, he preempted a homestead, erected a saw mill, and went broke. This going broke is something, too, that happens to many people who come to the frontier to grow rich.

From running a saw mill in a treeless country Payne turned to skin hunting. There was no end for a time to the buffalo, deer, antelope, wolves, and other animals whose skins could be marketed, and Payne made a success of this, and eventually became first a guide for private parties, and then a scout in Government employ. His frontier title was "the Cimarron Scout."

During the war of the rebellion he served three years as a Kansas volunteer, returned to Doniphan county and served one term in the Kansas Legislature, and then went back to the army. From October, 1867, to November of the same year he served as Captain of Company D, Eighteenth Kansas Cavalry, and afterward, during 1869, as Captain of Company H of the Nineteenth Kansas Cavalry. Here is where he got the title of Captain.

Leaving his soldier life he became a politician. He was once Postmaster of Leavenworth, and for two terms served as Sergeant-at-Arms to the Kansas Senate. In 1875 and 1876 he served as Assistant Doorkeeper to the House of Representatives. It was in Washington that the Oklahoma idea was born. Payne eventually became its adopted father.

That the Oklahoma idea originated in the brain of some lawyer in railroad employ will probably not be disputed when the facts are known, unless it is by the officials of the two railroads, who have been interested in the scheme—the Atchison, Topeka and Santa Fé and the St. Louis and San Francisco, formerly the Atlantic and Pacific.

A glance at the map will show that the Santa Fé now has a line running north and south through Oklahoma proper, while the other road, commonly called the 'Frisco, has a line projected across it from the east.

When the boomers were first heard of the 'Frisco people had a bad claim on the odd sections for forty miles on each side of the surveyed route of the road west through Oklahoma because of the grant already mentioned. The claim was bad because the road had not been built as provided by the terms of the grant made in 1866 to the company, but the company does not admit that the claim is bad even to this day. If the claim was good nothing could be of greater advantage to its owners than the opening of the land to settlement. There would be a market value to the odd sections and there would be traffic a priority for the road as soon as built. Who the 'Frisco lawyer was who conceived the idea of forcing the opening by a raid is not certainly known, but it was probably Col. E. C. Boudinot, the Cherokee lawyer, an Indian of talent, education, and long experience as a Washington lobbyist. The scheme at any rate was the basis for the opening of the Black Hills country, only a short time before, doubtless suggested the idea.

If Col. Boudinot did not originate the idea he was a wheel-horse in promoting it. Among other things done by him in the interest of the movement was the preparation of a map to accompany the letter, a part of which has already been quoted, and that map was printed with the letter attached at the expense of the Government. It was Senate Executive Document No. 20, first session, Forty-sixth Congress.

The man who talks with the old boomers will be told that Payne first heard about the Government title to Oklahoma while a doorkeeper in Washington in 1876; that he thought about the matter with more or less frequency and indifference until in 1879, when, while living on a ranch in Payne township, Sedgwick county, a few miles from Wichita, Kansas, he went broke again. There is no proof that he went broke this time, though he was undoubtedly not rich, and was a broken down politician. The boomers say that to benefit his fortune he determined to go down into Oklahoma and take up a homestead.

HARRY L. HILL.

While it would be very hard, if not impossible to prove it, the truth is that Payne having been at once a frontiersman and a politician with an extensive acquaintance, was selected by the 'Frisco officials to lead the raid into Oklahoma, and he received a salary during all the boomer days for his services. The difficulty in the way of proving this assertion arises from the fact that it was expressly provided in the charter of the 'Frisco road that the charter should be forfeited should the officials in any way aid and abet any movement for the opening of any part of the Indian Territory for settlement.

As to the fact, however, there is this to be said. Mr. Harry L. Hill, now a wealthy citizen of Wichita, Kan., and a member of that city's Board of Trade, was the scout who led the first company of boomers that ever entered Oklahoma, Payne being the figurehead leader. In an extended interview with THE SUN reporter Mr. Hill said that the booming was done in the interests of the railroads, of which the Atlantic and Pacific, now the 'Frisco, was chief, and added:

"Payne was on a good salary all the time, but I would not like to have you say that the railroads paid him. The railroads would forfeit their charter by aiding to open the country in any way. In fact the railroad companies couldn't and didn't pay him.

When this much had been said, Mr. Hill saw the drift of his remarks, and thereafter talked more about the homes the boomers wanted, and said not a word about railroads. Probably the companies have no charge on their books against the services rendered by Payne, but Payne and others got railroad money from railroad men, although, of course, those railroad men if now called on would say that it was personal instead of railroad money.

Further than this, it will be seen in the course of this history that the boomers ceased their invasions in 1885, and that that was the year the Santa Fé got its right of way across the Indian Territory.

Further still, Capt. Couch, who became the figurehead of the boomers after Payne died, ceased booming to take a fat contract on the grading of the Santa Fé road across the Territory.

Besides all this, it is common talk everywhere along the Kansas border that the railroads were backing the boomers. THE SUN reporter was first told of it at Baxter Springs by President C. W. Daniels of the Baxter Springs Board of Trade, who said he knew it to be a fact.

CHAPTER V.

PREPARING TO INVADE OKLAHOMA.

It is commonly supposed that the first organized invasion of Oklahoma was made in 1879. An unorganized invasion was made on April 28, 1879. The heterogeneous compilations which the Southwestern editors call boomer editions invariably place the organized invasion in 1879, but the fact is the first organized raiders left Arkansaw City at 7 o'clock on the night of April 13, 1880. But there had been a deal of booming done during more than twelve months preceeding that date, and the unorganized mob raid originated the mistake.

The first public meeting to awaken public interest and create a desire among land seekers to enter Oklahoma was held on the southeast corner of Douglas avenue and Main street, Wichita, Sedgwick county, Kansas, in October, 1878. Of course, many others were held. George E. Harris, then and now a wealthy citizen of Wichita, presided, but the exact date of the meeting has been forgotten, and no record was kept. Capt. Payne was the chief speaker. Payne was an orator to please a Western audience, but, judging from the size of the first colony, he had up-hill work at first.

Divested of verbiage, the legal argument of the orators who sought to invade Oklahoma was of a sort to carry conviction, particularly as it was backed up by decisions of Justices of the United States Supreme Court. Here it is:

The land in question had been purchased with cash. Therefore the title was vested in the Government. Therefore the Indian title had been extinguished. Therefore the lands were Government lands. Therefore they were open to settlement, because, according to the Revised Statutes, section 2,257, "all lands belonging to the United States to which the Indian title has been or may hereafter be extinguished shall be subject to the right of preemption."

It is admitted that the land was purchased with cash. Justice J. C. Parker, as already quoted, decided that the title had been conveyed to the United States, although he held that a further act of Congress or of the President was needed to open the land to settlement. But the boomer orator had equally good authority, apparently, on his side. In the case of Bates agt. Clark, 95 U. S., pages 204 et al., Justice Miller held that "as soon as they (the Indians) parted with the title it ceased to be Indian country, unless by the treaty by which the Indians parted with their title, or by some act of Congress, a different rule was made."

In the case of the American Fur Company against the United States, 2 Pet., 358, decided in 1829, in which the company's goods had been seized as having been unlawfully introduced, it was held that if by treaties made with the Indians their title had been extinguished, the land had ceased to be Indian country.

While it should be said that Justice Parker, just quoted, had these decisions before him when he held that a President's proclamation was needed to open Oklahoma to settlement, the argument of the boomer was strong.

The reason why the President did not issue a proclamation and open the country, and thus end the trouble, was due to a fact which furnished to the boomer a sound argument to prove, at least, that the country ought to have been opened up to settlers, although it does not necessarily prove that the land was in fact subject to settlement.

It was due, at the last days of the Hayes Administration, and cattle kings were in possession of the land and ready to fight for it. These cattle kings were in practice, and a great majority of them were in fact, active Republican politicians. It would never do to offend them to please what the public supposed to be a few poverty-stricken home-seekers.

If the cattlemen, said the boomer orator, have a right to go there and remain there, why not the settler? The question remains unanswered to this day, for the cattlemen have been there all these years—barbed-wire fence and all. The disgraceful facts, smirching every Secretary of the Interior from Schurz to Lamar, will be briefly related further on.

Of course, no little work had to be done before a public meeting was held, such as writing for the press, &c. But the most important part of this work was the organization of a town site company. This was to interest men of means. If a history of the town site companies that have been organized in Kansas could be written it would vividly illustrate one of the least known phases of frontier life; that is, least known to people of the East.

A town site company was organized, in order to lay out a town which should, as the projectors hoped, become the capital of Oklahoma. If the scheme had worked, the company would have sold their lots at enormous prices, and have divided a good big handsome fund.

The original company consisted of Capt. Jim Steele, President; George E. Harris, Vice-President; George M. Jackson, Secretary; Judge Locke, Attorney; Judge W. W. Thomas, Frank Smith, now Postmaster of Wichita; F. M. Craddock, W. B. Hutchison, and Messrs. Miller and McKee, nearly all of Wichita.

These were the men on the ground floor. Outsiders could get in for $25 a share nominally, but the price varied. It is said that $5 was the usual figure. Harry L. Hill held two shares of this stock, and his certificate read as given below, this, with like documents, being of no small interest as part of the history of the first attempts to settle the new Territory.

No. 124. Shares $25.00 each.

THE OKLAHOMA TOWN COMPANY,
WICHITA, KANSAS.

Chartered under the laws of the State of Kansas, Aug. 1, 1880.

This certifies that H. L. Hill is the owner of two shares of the capital stock of the Oklahoma Town Company, and that the same is non-assessable and is transferable only in person or by attorney on the books of said company upon the surrender of this certificate.

In testimony whereof the said company have directed that the President subscribe hereto his official signature and that the Secretary countersign the same and attach the company seal. J. M. STEELE, President.

Countersigned GEO. M. JACKSON, Secretary. [Seal.] 2 shares.

Printed in green tint ink under the black lettering were the words and figures: "Capital stock, 2,000,000." It is presumed that it meant that many dollars.

The money received for the sale of these shares in the town-site company went to pay the expenses of printing the certificates and also to furnish an outfit for boomer invasions, but just how much money was collected, and whether the ground-floor members really lost money, as they say, or did not, cannot be determined. If 124 shares or more, as the certificate of Mr. Hill indicates, were sold at par, then a fairly good-sized pile of money was secured for expenses.

But the town-site scheme was not the only source of revenue to the ground floor boomers and leaders of the colonies. Before any expedition attempted to start, a colony company was organized. The ground floor members in the town-site company organized the first colony company also. Capt. D. L. Payne was its President and W. B. Hutchison of the town-site company secretary. Mr. Hill owned one share in the colony company, as the following transcript of his certificate shows:

No. 230. $100.

SOUTHWEST COLONY.
(Capital stock $1,000,000.)
TOWN AND MINING COMPANY.
Incorporated under the laws of Kansas.
Certificate for capital stock.

This is to certify that H. L. Hill is entitled to one full paid share of the capital stock of the Southwest Colony Town and Mining Company, of the par value of one hundred dollars, and to one lot in the town to be laid out in the Indian Territory by said town company (the site of which has been selected), said company agreeing not to sell a lot in said town to any one outside of the organization for a less sum than twenty-five dollars.

Said stock to be issued to the holder hereof upon presentation of this certificate to the secretary of the company and deed to said lot after said company shall have permanently located upon its town site in the Indian Territory. And said stock will entitle the holder to a share in all the profits of said Southwest Colony Town and Mining Company, and to protection in securing 160 acres of land in said Indian Territory. The holder hereof agrees, in person or by substitute to join the colony to be moved into said Indian Territory, at its rendezvous, upon five days' notice from the proper officers of the company.

This certificate is transferrable upon the books of the company.

Dated at Wichita, Kansas, this 28th day of February, 1881. D. L. PAYNE, President.

Attest: W. B. HUTCHISON, Secretary.

The reader will observe that on the face of the certificate the colony company was also a town site company, and that the holder of the certificate was entitled to a lot as well as a share of stock. This colony company was organized in February. It looks very much as if the Oklahoma Town Company was organized afterward as a wheel within a wheel.

That not a few people invested their money in this scheme is shown by the number (230) on Mr. Hill's certificate. Each certificate or share cost $2. The books of these companies are not open for inspection, but, as a matter of fact, thousands of people put up their money. A charge of $5 was made by later and greater colonies.

In fact, so wide was the Territory covered by these schemers that agencies to secure colony members were established at every available point. One of the agents so secured was Mr. A. P. Lewis, then living in Richardson county, Nebraska, and now a citizen of Purcell. A printed certificate authorized the agent to whoop up the colonists. Mr. Lewis had a certificate as follows:

Capt. D. L. PAYNE, President.
THOS. D. CRABDICK, Gen. Man.
Hon. J. M. STEELE, Treasurer.
W. A. SHUMAN, Secretary.

OFFICE OF PAYNE'S OKLAHOMA COLONY,
WICHITA, KANSAS, June 1, 1882.

This certifies that A. P. Lewis is a duly authorized agent for the county of Richardson, State of Nebraska, for the disposal of Certificates of Membership and Certificates for the Location of Lands. All business transacted by him under the seal of the colony will be respected by the colony.

In testimony whereof the names of the President and Secretary are hereto officially subscribed and the seal of the colony attached. D. L. PAYNE, President.
J. K. JARRATT, Secretary. (Seal.)

But one more document remains to be given to complete the variety that was used in the first raids on Oklahoma, and that is a certificate for the location of land mentioned above. Nothing was used on the first raid. The following is a copy of a blank one:

PAYNE'S OKLAHOMA COLONY.
Certificate of location No. ——.
WICHITA, KANSAS, —— 188—.

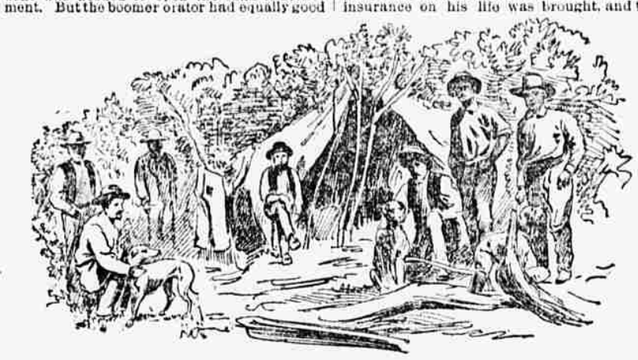
—— is entitled to the —— section, —— Township —— Range —— containing —— acres of the public lands in Oklahoma. And his right to the same is hereby guaranteed to him or his assignees by all the power that can be afforded by this colony, each member thereof being bound to respect the rights and protect the interests of every other member against intruders. And this certificate signed by the President and countersigned by the Secretary, with the seal of the company attached, shall be the only evidence of any member's rights to the protection hereinbefore mentioned.

In testimony whereof the President has signed his name officially, and the Secretary has countersigned the same and affixed thereto the seal of the colony, the day and date above written. ——, President.
——, Sec'y.

CHAPTER VI.

ON TO OKLAHOMA.

After much speechmaking and many contributions, Capt. Payne gathered together a band of men to go over the line and possess the land of Oklahoma. It was not a large band, but it was large enough to have effected a settlement had everything been propitious, for thousands would have flocked to them had they succeeded. In all twenty-five men answered the roll call on April 13, 1880, at Arkansas City, the place of rendezvous. Of these three turned back, and one, Capt. John Hulbar, disappeared at the Cimarron River. He was supposed to have been drowned until a suit to recover the insurance on his life was brought, and then the insurance company found him. The twenty-one reached their destination in safety. Here are the names as given by the scout who led the way:



A BOOMER'S HOME IN OKLAHOMA.

Capt. D. L. Payne, President; Harry L. Hill (known as Oklahoma Harry) guide; C. Goodridge, surveyor; J. C. Jones, at present Police Commissioner of Wichita; O. B. Jones, Harry Stafford, J. K. Jarratt, Allen Youngmun, and Messrs. Weir, Crumb, Kirk, Calbert, Serviss, Smith, Brophy, Rowley, Hathaway, Wood, Houghton, Nickel, and Weiss.

The start was made at 7 o'clock P. M. in order to avoid the soldiers who were watching for them in consequence of the publicity that the boomer movement had received. Harry Hill led the way some distance in advance, having Harry Stafford along with him. They travelled in a wagon loaded with buffalo skulls, which had been gathered before the start. Hill drove while Stafford threw out a skull as the crest of each ridge that was passed in order to mark the trail for those who were coming behind. The trail thus formed, having been marked on the crest of ridges only, is known everywhere in the West as the Hog's Back Trail. Its course is marked on the map.

It was necessary for the guide to keep a good distance—at least two miles in advance—in order to warn the party should a squad of soldiers be unexpectedly met.

The route followed was from Arkansas City southwest down to the Shakaska at a point nine miles south of where the State line is crossed by Shoefly Creek. It was after midnight when the Shakaska was reached. There the company went into camp and remained until 11 o'clock on Wednesday morning, April 14.

From the Shakaska the colony went down to Thompson Creek, which they struck 100 yards west of the northwest corner of Nez Percés reservation. Here they fell foul of a lot of the Nez Percés Indians with Chief Yellow Bull and Chief Joseph in charge. The boomers compromised with the Indians by liberal presents of pigs tobacco.

From this point they travelled south, leaving Thompson Creek at 6:45 A. M., crossing the Salt Fork at 11 A. M., and going into camp three miles south of it and six miles west of the Nez Percés reservation. After dinner they continued south to the sixth standard parallel, and then southeast over the prairie to Pawnee Creek, where they camped for the night. This was Thursday night, April 15, 1880.

Early Friday morning they crossed this creek to the east and followed it to Red Rock Creek, which was running bank full. A raft was made and the wagons floated across, while the horses swam. The reason for crossing was they could thus get into the timber. Harry Hill had been scouting, and discovered a squad of soldiers in camp four miles west of where they crossed. Here they remained concealed all day.

The next morning, Saturday, the 17th of April, 1880, the soldiers were on up the trail toward Kansas looking for boomers. The boomers went on to Black Bear Creek, where they camped for the night. On Sunday, the 18th, they travelled to the Beaver, and were obliged to take to the woods again as a troop of soldiers was seen coming up on a trail four miles to the east of them with three captured wagons of hunters. It was found also that soldiers were patrolling both Black Bear and Beaver Creeks and it was necessary to keep in the shade.

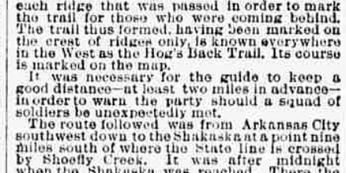
On Monday and Tuesday they went over to the old Chisholm trail to the west and followed it south to the north bank of the north fork of the Canadian River. It was in this valley that the colony had determined to locate.

The weather for two days had been unpropitious. Rain had fallen almost steadily, and Capt. Payne was about laid up with the rheumatism. What he wanted most of all was to get into a house out of the wet, and it was due to this circumstance that the spot eventually chosen for the site of the town—the capital city, as they hoped—was selected.

Over on the south bank of the Canadian stood a number of buildings which had belonged to Wantland's old ranch. To get Payne out of the rain, Harry Hill took him over to one of them, which he (Hill) had used the year before while holding a bunch of horses there. The next day, Wednesday, the rest of the colony came over to the buildings to get out of the wet also.

On Thursday, April 22, 1880, the site of the city was selected. A couple of nights under the roof had helped Payne so that he could get around pretty well, and he went out to see the country. Mr. Hill, Payne, and others took their axes with jack oaks, about two and a half miles west of the old Chisholm trail, and on the first rising ground south of the river on which they were camped. It was such an attractive spot that he determined to lay out the city there.

Thereupon Surveyor Goodridge got out his instruments, and the colonists took their axes and went to work. The crown of the knoll was cleared of the little oaks to make a public square, and from each corner a long avenue was cut, the plot of the new city having been adapted from the plot of Indianapolis, Indiana. All the streets were run by the points of the compass, north and south, east and west. Harry Hill, with a flat-topped stump for a table, drew a couple of plots of the new city, one of which is now in the possession of THE SUN reporter. It looks like this:



PLOT OF EWING.

Gen. Tom Ewing had been one of Payne's best friends while Payne was in politics. It is said by Payne's friends that Ewing owed his seat in the Senate to Payne's efforts. The new city was named Ewing by its founder.

There was nothing small about this town, except the