

THE TRIAL OF BOOMER PAYNE

“Boomer Sooner, I’m a Sooner born and Sooner dead and when I die, I’ll be Sooner dead.”
Arthur M. Alden, 1905

David Lewis “Boomer” Payne was about to appear again before Judge Isaac Parker, the “Hanging Judge,” at Fort Smith for another of his illegal incursions into the Unassigned Lands. In fact, today September 8, 1884, was the ninth time Payne had appeared in some court and the plaintiff in this case, the Cherokee Nation, was hopeful that it would be his last.

David Lewis Payne, born in Indiana in 1836, cousin of Davy Crockett the fallen hero of the Alamo, had carried on his personal crusade for white settlement of the Unassigned Lands since 1879. Standing six feet six inches and weighing 250 pounds, a large man for his day, Payne had acquired a following of what some described as a dedicated cult. Prior to the Civil War he had been a government scout and served in the Kansas legislature. Following service in the Kansas 4th Volunteers, after the war he had also served under the command of George Armstrong Custer during the Washita Campaign of 1868. Following his army service, David Payne obtained a job as doorkeeper of the House of Representatives and learned about the possibility of obtaining free land from Elias Boudinet, a Cherokee lawyer and founder of Vinita in Indian Territory. Following a Supreme Court ruling against him in a tobacco venture he and his uncle Stand Watie had established, Boudinet had become convinced that Indians needed to become citizens of the United States in order to have equal protection under the Constitution. He also believed land should be held by individual title rather than by the tribe, a position strongly disputed by fellow tribesman.

Persuaded that Boudinet was right, Payne began a campaign to permit settlement in the Unassigned Lands founding his “Colonization Association,” at a membership fee of \$2.50 a head, and coordinating a series of failed occupations over a three year period. Payne’s appeal to anyone who would listen was that a land “boom” was underway on 2,950 square miles in Indian Territory and anyone courageous enough to follow him would reap its benefits. Usually launching his “invasion” from his ranch, between Tonawanda and Wichita, Kansas, Payne would lead determined “Boomers” into the Unassigned Lands and before their discovery by government officials, the immigrants would set about establishing a “community” and each time they would be routed out by the army and escorted out of the territory. Routinely, Payne and other members of the leadership would be tried for trespassing, fined and released. Undeterred, he would regroup his followers and attempt another occupation. One of the more notable efforts of the Boomer Movement, “Camp Alice” occurred during February of 1883. Led by Payne’s second in command William Couch, the settlement was established northeast of today’s Oklahoma City near Arcadia. However it also was destroyed when soldiers appeared, arresting and removing the occupants.

The circumstances surrounding Payne’s appearance in Judge Parker’s court, which incidentally would be Payne’s last, was his occupation of land in the Cherokee Outlet, thus placing him in Parker’s jurisdiction. After his arrest, Payne was sent on an arduous

journey to Fort Smith where he was bound over for trial. In sum, the meeting was somewhat anticlimactic. Parker inflicted the maximum sentence for those found to be illegally in Unassigned Lands, expulsion from the land and a fine of \$1,000. Payne paid the fine and left Fort Smith. Returning to Kansas, he went on a speaking tour to raise money for his colonization efforts. Although he was a robust man, Payne had been plagued with various illnesses throughout his life. The morning after a presentation at Wellington, Kansas on November 28, 1884 he succumbed to a heart attack while eating breakfast in the hotel dining room.

As a result, the burden of the Boomer Movement now fell to a reluctant William Couch. In December, Couch lead 300 boomers to a place called "Stillwater." Once again the group was ousted and Couch was arrested but soon freed. He then turned to a political strategy, pressuring Congress until finally at noon on April 22, 1889, ten years after Payne first became involved, white occupation of the Unassigned Lands became legal. Couch and 50,000 of his closest friends participated in the first land run and he staked a claim in downtown Oklahoma City. Shortly thereafter, William Couch was appointed provisional mayor and today his name is memorialized by a park and a street.

The germ of Oklahoma statehood began with the Unassigned Lands promoted through the persistence of the Boomers led by Payne and then Couch. Ironically, neither would enjoy the fruits of their efforts. On April 4, 1890, William Couch was shot during a property dispute. He died of his wounds two weeks later.

