

HENRETTE SIMS LIFTS A CLOUD FROM TITLE TO LOTS IN EAST HALF OF SECTION SEVEN

The Treaty of Dancing Rabbit Creek had three provisions by which Indians belonging to the Choctaw Nation, and desiring to obtain title to blocks of the Indian lands, could obtain legal title to such lands. The first provision was made by a section of the treaty in which a number of Indians, and one white man, were specifically granted the right to select certain acreage anywhere in the area of the land ceded by the Choctaw Nation. These were called "float reservations." These reservations could be occupied by the persons for whom the reservations had been made, or they could be sold, without restriction to any person who made a deal to purchase them. The second provision was a general one and came under "The Cultivation Article" of the treaty. Under this provision any Indian who had occupied and made any considerable improvement on a tract of land before the signing of the treaty, could select the allotment of land due him and his children under the third provision, which was general in nature, and have that land located so as to include the land which he had improved. As head of a family an Indian was entitled to a section of land; his children over ten years of age a half section, and children under the age of ten, a quarter section. The only difference in the second and third provisions were, that under the second provision the Indian could select the location of his land, and had the right to dispose of it, if he so desired, and give legal title to it. Indians claiming reservation under the third provision would have their land located for them, and would have to remain in Mississippi five years before they could obtain legal title to the land. Since most of the tribe had decided to go west with the rest of the Choctaw Nation, very few Indians obtained title to land under the third provision. Indians claiming title under the first two provisions were relatively few, and, since they could give a good title to any purchaser of their property, land speculators sought them out, and some of them sold their lands. John Donly, only white man given land under the treaty, and Peggy Tryhan, illiterate Indian woman, and mother of two children identified in the Treaty of Dancing Rabbit Creek and "the fatherless children" of Peggy Tryhan, are examples of holders of "float" claims who sold these claims to white men. James Oxberry and Chief Turnbull, are representative of owners of float claims who located and lived on these reservations.

John Donly lived in Nashville, Tennessee, and seems to have had no desire to locate and live on the section of land to which he was entitled by the treaty. The treaty states that it was the desire of the Indians that he be given this land since he had for a long time been the mailrider through their country and since he had "Indian grandchildren." For an undisclosed amount, Donly sold his reservation claim to another resident of Nashville, Henry R. W. Hill by name. Through his agent, William M. Gwin, Hill sold this reservation to Hiram Runnels and John Watt. The land involved was Section eight, township twenty two, range five east, which was to become the section in which Tullahoma was to be located. There was never any suspicion that there was anything illegal in these transactions, so there was no desposition on the part of anyone to challenge the legality of the title which was obtained by the Proprietors of the Town of Tullahoma. On the other hand, there seems to have been a feeling that there was something fraudulent in the disposition of the four hundred and sixty seven acres of land reserved for Peggy Tryhan and her two children. Three hundred and twenty acres of this land was located in Section seven, Township twenty two north, range five east. The remaining one hundred forty seven acres was located in Holmes County. It is well to note that the entire acreage was reserved for Peggy and her two children, without anything to indicate that this land was to be held other than in common by the mother and her sons. On July 29, 1833, almost two months before the public sale of lands was to begin, Franklin E. Plummer purchased from Peggy the three hundred and

twenty acres which had been reserved for her and her children in the East Half of Section Seven. It is also probable that he also purchased the land located in Holmes County, but we have not confirmed this. Unfortunately, the transaction by which Peggy sold her reservation to Plummer is not on record, the Original Entry Book merely indicating that the above mentioned half section was a float reservation for Peggy Tryhan. We do not know what price was paid by Plummer for this land, but it is a matter of record that Samuel Gwin, Registrar of the Land Office at Chocchuma, felt that there was fraud in the manner in which the land was obtained. On August 26, 1835, Samuel Gwin in a letter to the Commissioner of the Federal Land Office made this statement: "Under the eighth paragraph of the Treaty of Dancing Rabbit Creek, there is a reservation in favor of Peggy Tryhan and her two fatherless children, and Delilah and her five fatherless children, to be located under the direction of the President of the United States. The following lands have been reserved from sale." He then describes the location of the land reserved for these two Indian women and their children. He then mentions the half section reserved for Peggy and her children, describing it not only by its half section nomenclature, but also as Lots one, six, seven, eight, nine, fourteen and fifteen. Sections divided by the Yalobousha were usually identified by lot numbers as well as in the usual manner of description. The lot numbers covered all the land in the East Half of Section Seven. Mr. Gwin continues his letter; "These lots are believed to have been reserved for the children of Peggy Tryhan; for Governor Runnels purchased the claim if I mistake not." (He was mistaken since Runnels had bought Section Eight.) Mr. Gwin continues: "It has been represented that frauds have been practiced on these orphans by a person having himself appointed their guardian; ordering the land to be sold, and he becoming purchaser for little or nothing." Plummer was the purchaser of the land, and while Gwin seemed to think that Runnels was the guilty person, the implication is very clear that purchaser of the land was guilty of fraud. Of course if Peggy had been given an individual reservation, she could have sold the land to anyone without question as to the legality of the sale, but the question bothering Gwin was whether she had the right to sell the land reserved in common for her and her children. The question as to whether Plummer did, in reality, become Guardian of the sons of Peggy, and as such, purchased the land for himself, or, if he merely bought the reservation without considering the rights of the sons will probably never be answered, but, within a few years after the establishment of the town of Pittsburg on part of the land included in the purchase, the question would become a serious one to the people owning lots in that part of Grenada which had once been lots in the town of Pittsburg. The undue haste in which Plummer seemed to dispose of his title to the land might indicate that he knew of the suspicion directed at his acquisition of the land, and felt that it would be a good idea to unload the land on others. In eighteen hundred thirty four he sold all his right in the property to two partnerships and one individual. They became the Proprietors of the Town Company of Pittsburg. Later, when one of the firms defaulted in some part of their obligation to Plummer, he again became a fourth owner of the property. For some unexplained reason, neither Plummer nor the Proprietors of the Town Company of Pittsburg ever bothered to apply for a government patent to the land involved. For about three years there was a brisk sale of lots in the new town. Homes were erected and business houses established. As the financial panic, beginning in 1837, became more severe the sale of lots by the Town Company slowed down, and soon lots were beginning to be sold for taxes. Many unsold lots belonging to the Town Company were sold in this way. During the height of the tax sales another menace to lot owners in the little town appeared in the form of a deed recorded in 1845 which purported to be a conveyance by Jerry Tryhan to L. P. Edington of his interest in the half section of land on which Pittsburg was located. The alleged conveyance was dated as of June 15, 1845, and for a consideration of two hundred dollars conveyed to Edington the half section on which Pittsburg had been located some ten years earlier. This transaction would seem to indicate that there was still some suspicion

relative to the legality of the transaction by which Plummer came into possession of the land. It is improbable that Jerry Tryhan, an illiterate Indian, initiated this action. It is possible that Edington felt that the deed given by Jerry Tryhan would cast a shadow of title on the property, and that he might be able to use the threat to force the owners of lots to buy quit claim titles from him. If this was his motive, it did not result in the desired end. There is no record of Edington ever giving either warranty or quit claim titles to any of the lots in the town.

Evidently the action of Jerry Tryhan in seeming to assume that he had a legal right to part, or all, of the East Half of Section Seven caused concern among some of the property owners in Pittsburg. The first action taken to protect property in the town of Pittsburg against the threat imposed by the transaction between Jerry Tryhan and Edington was taken by a woman who, at the time of her first action, does not seem to have been an individual property owner, but whose husband and father were considerable property owners in and about the town of Pittsburg. On November 11, 1845, just about six months after the date of the transaction between Jerry Tryhan and Edington, Jerry Tryhan gave a deed to Henrette Sims to the same property to which he had given a previous deed to Edington. This time the consideration was one hundred fifteen dollars. Thus, within six months time, Jerry Tryhan makes two conflicting sales of land which his mother had sold to Franklin E. Plummer thirteen years before. At first it would seem that Mrs. Sims had made a bad purchase, since the deed given to Edington preceded the deed given to her. But she seems to have had a long range plan to put her claim in a preferred position. On May 21, 1846, for a consideration of five hundred dollars Peggy and Jerry Tryhan made a joint conveyance of the land in question to Mrs. Sims. Thus two members of the Tryhan family made another conveyance of the land in question. There was still another part involved in original title to the land. James A. Tryhan, unlike his mother and brother, had not remained in Mississippi, but had gone with the Choctaws to the western Indian reservation. He seems to have been a little better trader than his mother and brother, since we find that on April 27, 1846, he had conveyed to Mrs. Sims, for a consideration of five hundred dollars his interest in the East Half of Section Seven as well as his interest in the one hundred forty seven acres of land reserved for the Tryhans in Holmes County. In three transactions with Mrs. Sims, one by Jerry alone, another by Jerry and his mother jointly, and another by James and his wife Sarah, the Tryhans realized eight hundred and fifteen dollars to relinquish whatever claim which they may have had in the land in question. Of course, in addition to this sum, Jerry had received two hundred dollars from Edington. As matters now stood, Edington had only a deed from Jerry, while Mrs. Sims had a conflicting deed from Jerry Tryhan and ten undisputed deeds from Peggy Tryhan and her son Jerry. Perhaps this shrewd action on the part of Mrs. Sims convinced Edington that he had been out-manuevered. This may explain why there is no record of any conveyance made by him of property involved in these several transactions.

On January 5, 1845, just ten days before Jerry Tryhan gave the deed to Edington, there was a tax sale of lots in the town of Pittsburg. At that sale, Thomas B. Ives, acting as agent for Charles Price, bought in one hundred and twelve lots in the old town of Pittsburg, now a part of the town of Grenada. Most of the lots had been owned by the Town Company, and many of them were located in that part of the old town north of Cherry Street, although a number of the lots were located fronting the old town square. The total sum paid for these tax titles was thirty nine dollars and forty cents. We wonder if the members of the Pittsburg Town Company realized that there was a possible defect in their title, and by allowing the lots to be sold for taxes, hoped to erase the cloud on their title and then redeem the lots later. If this was their intention, things did not work out that way. On December 10, 1846, just about a year after Mrs. Sims had secured the three deeds from the Tryhans, Price,

acting thru his agent Ives, sold his tax titles to the one hundred twelve lots to Mrs. Sims for a consideration of fifty five dollars. There was another tax sale of lots which brings to light another strange maneuver on the part of Mrs. Sims. On April 17, 1847, she purchased at the tax sale twenty four lots for a consideration of one dollar and sixty eight cents. So far as we are able to ascertain, these were the first individual lots acquired by Mrs. Sims. The strange part of the transaction is that the deed given Mrs. Sims by the sheriff described the tax defaulting owner of the twenty four lots as Peggy Tryhan. Mrs. Sims already had the three deeds from the Tryhans conveying the whole half section. Why were the lots sold listed as the property of Peggy Tryhan when there is no record of her ever having had title to any individual lots? We can only speculate as to the reason. It is possible that Mrs. Sims still feared litigation by Edington and had alleged ownership of these lots as being in Peggy, and hoped in this way to make out a stronger title to property which she already owned if her deeds from the Tryhans to the half section of land gave her a valid title to the property involved.

Mrs. Sims did not cease in her endeavor to make certain that the cloud of title was removed from the property which she was acquiring. She contacted the Government Land Office relative to obtaining patent to the half section of land. On March 27, 1847, we find the following notation from a letter to the United States Secretary of War, under whose general direction the Indian treaty had been made and Indian lands disposed of: "Respectfully submitted to the Secretary of War with the recommendation that the sale from James A. Tryhan, as within indicated be approved by the President of the United States. Office of Indian Affairs, W. Middill." Then comes the next action; "respectfully laid before the President of the United States for the approval recommended by the Commissioner of Indian Affairs." This notation has the following statement: "Approved August 2, 1847, James K. Polk." The Original Entry Books shows that the patent to the land involved was issued to Mrs. Sims in 1851. It would seem from the statement of the Commissioner of Indian Affairs that it was only after the deed from James Tryhan was submitted to him that he was willing to recommend that the patent be issued to Mrs. Sims. This leads to the supposition that the Commissioner had decided that it was necessary to have the deeds from all the Tryhans before he would recommend issuance of the patent. This in turn, seems conclusive evidence that Peggy Tryhan did not have the right to make an individual conveyance of the property to Franklin Plummer, and that in fact, the original transaction was fraudulent. By December 20, 1850, it must have become evident that Mrs. Sims would eventually receive a patent on the land, since on that date A. Bew deeded to Mrs. Sims the one hundred twelve lots which he had purchased at the tax sale. Since he had paid only fifty five dollars for the tax titles, and received five hundred dollars from Mrs. Sims as the consideration of the transaction with her, he made a profit on his deal, but sold the lots for much less than their real worth. The financial panic was nearing its end, and property values were beginning to recover something of their former values. During the waning years of this depression Mrs. Sims continued to buy up lots at tax sales, and some by individual transactions with owners, until by 1855 she had become owner of a majority of the lots in that ward of Grenada which had been the original site of Pittsburg.

We should like to know the motives which impelled Mrs. Sims to engage in these various transactions, but can only speculate as to those motives. Her father, John Smith, one of the members of the staff of the Elliott Indian Mission, and an early settler in Pittsburg; her husband James Sims, merchant, and also an early settler in Pittsburg, and William Huntly, former member of the staff at the Chocchuma Land Office, and husband of her Mrs. Sims' sister Maria, all were owners of considerable real estate in the old town of Pittsburg. Was she acting at their direction, and for their benefit, in trying to remove the cloud of title from their rather extensive land holdings in the half section involved? Was she trying to clear the title of her relatives, and intending

to sell quit claim deeds to other property owners? Did the threat of defective title cause so many lot owners to allow their property to sell for taxes? Did the fact that John Smith, father of Mrs. Sims, was a member of the Proprietors of the Town Company of Pittsburg, and a fourth owner of the original town property of the town of Pittsburg, have anything to do with her transactions? John Smith was the owner of considerable land in and around Grenada. Did his daughter fear that if Edington's deed from Jerry Tryhan proved legal that her father, as a member of the Town Company, would become responsible to the people who had bought defective titles from the Company? These are questions which probably will never be answered, but they present an interesting side light upon early land transaction in and about the area in which Pittsburg had been established.