

ANNALS OF IOWA.

EDITORIAL DEPARTMENT.

GENESIS OF THE IOWA HOMESTEAD LAW.

A wise man has said that "Law is history:" in other words, that the history of nations may be deduced from their laws if no other records are in existence. A people who would sanction or demand, and a legislative body which would enact, a law like ours for the beneficent exemption of the homestead of the poor man from forced judicial sale, certainly deserve a high place in the history of modern civilization. This was done in Iowa almost fifty years ago. How this innovation came about, and to whom the good work is properly attributable, it is the purpose of this article to set forth. Once the principle was incorporated into our statutes, it might safely have been predicted that this people would be brave and magnanimous in a war for the union of the states, or in defense of human rights; that its action in the care of the unfortunate classes of society would be dictated by the highest Christian charity and benevolence; and that in the cause of public education Iowa would be surpassed by no other commonwealth. All this has been abundantly realized. Our State, however, has so long had this law upon her statute books, that the history of its origin has been well nigh forgotten. People in general concern themselves more in relation to what the laws prohibit or permit than with delving in musty places to search out their beginnings. This is all very natural, and will doubtless so continue as long as the necessity for laws shall exist. But, in setting down the deeds of those who have gone before us, the makers of good laws should be especially remembered.

Recently, in conversation with Hon. P. M. Casady, of Des Moines, he made mention of the earnest fight which arose over this question in the legislature, when it occurred to the writer that a history of its initiation should be written.

Mr. Casady suggested writing to Mr. L. B. Patterson, of Iowa City, to whom the original suggestion of the law was due. In answer to inquiries, Mr. Patterson wrote the following letter:

IOWA CITY, Feb. 20, 1897.

DEAR SIR:—In reply to yours of the 19th, I would say that it finds me in a bad condition to answer in a satisfactory manner, as I am on the flat of my back from a prolonged illness of over a year. I am very weak and hardly able to write. But I will give you my recollection of the facts of the first homestead law in Iowa, as it is the one act of my life in which I feel some pride as the originator thereof. By the active assistance of friends, its passage was secured.

At that time I was a very young man, and was territorial librarian. I had become acquainted with many members of the legislature. The causes that led me to think of it and determined me to try and get proper legislation on the subject, were, that I had observed the actions and hard-heartedness of the money lenders in this community, who generally loaned their funds at 40 per cent. interest. When a poor man had a piece of land which he desired to improve, they were quite eager to make him a loan, taking a mortgage on his lands, and sometimes also a chattel mortgage on his personal property. When the obligation became due, or as soon as the same reached the amount that would absorb the property, they would clean the poor fellow out of his worldly possessions, turning him out helpless, with nothing for himself and family.

I saw many instances of such hardships, and I considered it a great wrong that ought to be controlled by proper legislation. Among the legislators then in session I had become very intimate with a member of the House from Lee county, the Honorable Isaac W. Griffith. He had lost his right arm in the Mexican war. I approached him first about the necessity of this legislation, and desired to know whether, if I should draft a bill on the subject, he would present it and do what he could to secure its passage. I must say that he did all in his power for the measure. I assisted him all I could with other members of both Houses, until its final passage. Of course, it was a very crude law but was afterwards amended by different legislatures. It was the first effort ever attempted in Iowa in this direction—the starting point of all homestead legislation in our State. The measure has proven of much benefit to all our people in the development of Iowa.

If this shall be of any benefit in answering your inquiries I shall be greatly pleased, as I write under many disadvantages.

Truly yours,

L. B. PATTERSON.

CHARLES ALDRICH, ESQ.,
Des Moines, Iowa.

The Journal of the House of Representatives shows that on January 12, 1849, the Honorable Isaac W. Griffith*, then a member of that body from Lee county, introduced "House File No. 166, A bill for an act to exempt a homestead from forced sale." It was read a first and second time, and on motion of the Honorable James D. Bourne (a member from Clinton county), was referred to the standing committee on the Judiciary. There was much haste in passing the bill, as the session closed four days afterward. It was reported back the same afternoon with an amendment—the proviso to the first section. The Honorable John L. Corse, father of the late distinguished major-general, moved the previous question which was sustained, and the main question ordered, which was—"Shall the bill pass?" The roll was called, resulting in yeas, 19, nays, 17.† "So the bill passed and the title was agreed to." It reached the Senate on the 15th, and was referred to the Committee on the Judiciary. As this was the last day of the session, the committee very soon reported it back, without amendment, recommending its passage. Considerable opposition at once appeared to the measure. An amendment was proposed and voted down, as was also a motion to lay the bill on the table. Upon the passage of the bill the yeas were 9, the nays 5. A factious motion was then made, to amend the title of the bill, so that it should read, "A bill for an act to prevent the payment of debts." This was also voted down—yeas, 4, nays, 10. The bill was approved by Gov. Ansel Briggs and the beneficent measure became the law of Iowa. Such, with sundry amendments which do not effect the principle of the law, it has continued until this time.

Sections 1 and 2 of the homestead law as it was originally passed, are as follows :

1. Be it enacted by the General Assembly of the State of Iowa, That a homestead consisting of any quantity of land not exceeding 40 acres used for agricultural purposes, and the dwelling house thereon and its appur-

*Col. Griffith died in Des Moines, on the 6th day of January, and Mr. Patterson at Iowa City on the 15th of March, 1897. See pp. 77 and 80 of this volume of THE ANNALS.

†The State legislature at that time consisted of 19 Senators and 38 Representatives.

tenances to be selected by the owner thereof, and not included in any town plat, or city, or village, or instead thereof at the option of the owner, a quantity of land not exceeding in amount one-fourth of an acre, being within a recorded town plat, or city, or village, and the dwelling-house thereon, and its appurtenances, owned and occupied by any resident of the State, shall not be subject to forced sale on execution or any other final process from a court, for any debt or liability, contracted after the fourth day of July in the year 1849: Provided, That the value of such exempted homestead, or town lot and dwelling thereon shall in no case exceed the sum of five hundred dollars.

2. Such exemption shall not affect any laborer's or mechanic's lien, or extend to any mortgage thereon lawfully obtained; but such mortgage or other alienation of such land by the owner thereof, if a married man, shall not be valid without the signature of the wife to the same.

The other sections of the law simply defined its application and provided for its enforcement.

THE OLD FORTS IN IOWA.

The editor of *THE ANNALS* is making an effort to secure an accurate history of the forts or posts which were established by the general government in early times, to protect our pioneer citizens from the depredations of the Indians under British influence, and later on to keep the tribes at peace with each other and restrain them from interference with the advancing tide of settlement. With each article we hope to be able to present an engraving from an authentic drawing of the fort or post described. We have already published articles on Fort Armstrong, at Rock Island, and on the old block-house and stockade at Council Bluffs. Through the kindness of Brig. Gen. D. W. Flagler, Chief of Ordnance of the U. S. Army, we present in this number a circumstantial account of the establishment of Fort Madison, on the site of the flourishing little city now bearing that name, and of the vicissitudes attending its occupation and final abandonment. The engraving shows a ground plan of the fort—the outer dotted line indicating the form and bounds of the stockade. This was about twelve feet high and doubtless loopholed for defense by small arms. The

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