

Comment by the Editor

THE NATURE OF LAW

In social connotation there is no bigger word in the English language than law. Lower forms of life have individual habits; but rules of conduct are at once the prerequisite and the product of human society. Men could not live together without regulating their personal actions, so the group determines the behavior of all.

Law is essentially a system of restraint. "Thou shalt" and "thou shalt not" are alike limitations upon personal freedom: yet liberty — relief from the brutish occupation of self-preservation — is the result of controlling the selfishness of men. While law, in a sense, is repressive, it is also the foundation of liberty and the highway to civilization.

All law must have sanction, and the basis of sanction is common consent. A rule of conduct which no one observes is a contradiction of terms; yet approval is seldom unanimous. Laws require formal enforcement, and for that purpose government flourishes. Support by governmental authority gives legality to law.

Back of the government, back of official enactments, in the social conception of well-being, justice, and order is to be found the origin of law. It is a

growth and not a creation. Through the centuries the needs and ideals of the people have determined the character and content of the law. Time-honored customs and standards have been adapted to the peculiarities of new conditions.

LAW ON THE FRONTIER

When the settlers followed the frontiersmen over the Alleghenies into Ohio, Kentucky, Indiana, Illinois, and eventually into Iowa, they brought with them the methods and traditions of their fathers. Honest, orderly, and independent by nature, they revised and transplanted the institutions and laws that were useful, and the rest they discarded. Though they respected the experience of others, they were not slaves to the past. Freed from the conventions of urbane society and unencumbered with historical dogmas, they did what seemed best at the time. Men of action they were—ever ready to blaze a new trail, whether on the plains or in the law, without losing their bearings. The limitless prairies had a way of broadening a man's horizon.

The pioneers were not interested much in law for its own sake. They desired a square deal and had little regard for the legal means to that end. Take the matter of land claims. The acts of Congress declared that no white man should locate a home in the Iowa country before it was opened for settlement. But the settlers were too intent upon migrating westward to read the United States Statutes

at Large. Contrary to the Federal statutes they "squatted" on the "National commons" and claimed possession of land without any right. Then, to secure their holdings against encroachment by others, they organized claim clubs with constitutions, by-laws, and records. They devised equitable rules for the disposition of the public domain which were afterward legalized. Beyond the pale of legal authority, the settlers of Iowa nevertheless governed themselves according to law.

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