

The Chain of Title to Iowa

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ANNALS OF IOWA.

EDITORIAL DEPARTMENT.

THE CHAIN OF TITLE TO IOWA.

In these times of careful business methods every prudent man who purchases a piece of real estate requires of the grantor an "abstract of title." These abstracts carry titles back from one to another to the patent issued to the pioneer owner by the Government of the United States. In rare instances even the validity of a patent has been questioned, and in such cases the Supreme Court at Washington determines whether the Government itself had the right at the time to convey title. It has sometimes happened that the General Government has never owned some certain tract or parcel of land "situate, lying and being" within its own domains—by reason of its having been granted or sold by some former jurisdiction which had owned it; or, possibly, it may have been previously conveyed by the Government itself. Such instances have been fruitful of litigation, as well as laying the foundation for interesting and complicated historical disputes.

In like manner, every State and Territory has a chain of title running back to the days of Columbus or the Cabots. These chains of title, not only to the general reader, but even to the precise and accomplished scholar, are often exceedingly complex and difficult to find and follow. We partially explained this proposition, or rather made it a subject of reasonable inference, in an article in our first number, upon the "Historical-Geographical Atlas," which has been compiled after years of most careful and patient research, by Captain Frank E. Landers, Clerk of the Executive Council of this State. From the original manuscript of the work, we are privileged to present to our readers the following abstract of the titles to the region now included within the boundaries of Iowa. We leave out all questions connected with the Indians,

presenting only such historical facts and dates as are recorded here and there in books, official documents, or patents granted to civilized adventurers or discoverers. As soon as it began to be dreamed or known in the Old World that there was "a land beyond the sea" inhabited by savages, the greed of gold, the lust of power, and the desire to spread the gospel, or a powerful combination of these impulses, led various potentates to take steps to secure a lion's share of these rich possessions. The first one to act was Pope Alexander VI. We gather the following data from the maps of Captain Landers.

GRANT TO THE KING AND QUEEN OF SPAIN.

1493. Pope Alexander VI granted to Ferdinand and Isabella, King and Queen of Aragon and Castile—Spain—all the continents inhabited by infidels, which they had discovered, extending the assignment to their heirs, and successors, the kings of Castile and Leon. The boundary between the grants to Spain and Portugal was fixed on a line drawn from pole to pole, one hundred leagues west of the Azores. All countries east of that meridian not actually possessed by any Christian prince were to belong to Portugal; all to the west, to Spain. Owing to the dissatisfaction of Portugal, as to the boundary fixed in the grant to that country and Spain, a commission was appointed, which, on July 2, 1493, agreed on a line two hundred and seventy leagues farther west. In the first assignment Portugal only secured the title to what was found to be a vast expanse of ocean, and the change of meridian was made in the belief that she would thereby acquire some portion of *terra firma*. But in this she was also doomed to disappointment.

THE CABOT PATENTS.

1496. Henry VII, King of England, granted to John Cabot and his sons, Lewis, Sebastian and Sancius, a patent of discovery, possession and trade. This was to include all lands they might discover, of which they were to take possession in the name of the English Crown. England laid claim in 1498 to all of North America, through the discoveries of the Cabots.

THE PLYMOUTH COMPANY'S CHARTER.

1620. James I, King of Great Britain, France and Ireland, granted to the Council at Plymouth, England, all that part of America lying between the fortieth and forty-eighth degrees of north latitude, and extending from "Sea to Sea." This grant included within its limits the whole of Iowa, and challenged any rights Spain may have received from the Pope.

THE MASSACHUSETTS BAY COMPANY'S CHARTER.

1628. The "Council established at Plymouth," England, granted to Sir Henry Roswell and others, all that part of New England in America, extending along the Atlantic coast from three miles north of the Merrimac to three miles south of the Charles river, and westward between the latitude of 42°, 2' and a point three miles north of the most southerly bend of the Merrimac, to the South Sea. This grant gave to the Massachusetts Com-

pany that part of Iowa lying between parallels passing through the north edge of Clinton county and the south part of Clayton county. Charles I, King of England, granted, March 4, 1629, to Sir Henry Roswell and twenty others, a charter similar to that of 1628, with the exception, that no part of the lands therein granted were, on the 3d day of November, 1620, inhabited by any other Christian prince or within the limits of the Southern Colony of Virginia. The associates were made "one body corporate and politic in fact and name, by the name of the Governor and Company of Massachusetts Bay in New England."

THE WARWICK GRANT.

1630. The Council at Plymouth granted to the Earl of Warwick a tract of country south of Massachusetts. The Earl on the 19th day of March, 1631, transferred the grant to Lords Say & Sele, Brooke and others. The country was defined in the transfer as lying south of Massachusetts, and west of Narragansett river, extending westward 120 miles along the coast, and thence west to the Pacific. The Warwick grant embraced that part of Iowa lying between latitude 41° and $42^{\circ}, 2'$, parallels passing through near the center of Henry county and the north edge of Clinton county.

THE PLYMOUTH COMPANY'S CHARTER.

1635. The charter of the Plymouth Company was surrendered to the Crown of England, to obtain a confirmation of the respective rights of the original members of the Company. The grant was divided into twelve parts, and distributed by lot. No territory was partitioned lying west of forty miles west of the Hudson. The Province of Virginia, on the surrender of the Charter of the Plymouth Company, extended its jurisdiction to the forty-first parallel, the south line of the Warwick grant. The territory of Iowa was then claimed by Virginia, the assignees of the Earl of Warwick, and Massachusetts, to the north line of Massachusetts, and from thence north by the Crown of England.

THE MASSACHUSETTS BAY COMPANY.

1652. The General Court of Massachusetts extended the northern boundary of the province to three miles north of the head of the Merrimac—latitude $43^{\circ}, 43', 12''$ —and west to the Pacific. This extension of boundary placed all of northern Iowa under the claim of Massachusetts.

THE CONNECTICUT CHARTER.

1662. Charles II, King of England, Scotland and France, granted a charter to John Winthrop and other associates, to the country included in the Warwick grant of 1639, the colonists having purchased the rights of the patentees in 1644.

THE MASSACHUSETTS BAY COMPANY.

1677. The Crown of England ordered that the northern bounds of Massachusetts be restored to within three miles of the Merrimac, thereby leaving the jurisdiction of the north part of Iowa, subject to the direct control of the King, as it was previous to 1652. The colony, however, still claimed to the northern limits.

LA SALLE'S PATENT.

1678. Louis XIV, King of France and Navarre, granted a patent to Robert de la Salle, permitting him to endeavor to discover the western part of

New France. April 9, 1682, La Salle, having descended the Mississippi and explored the shore of the Gulf of Mexico to the westward, took formal possession of the country in the name of the King of France, "from the mouth of the Ohio; also along the Mississippi and the rivers discharging themselves thereinto from its source beyond the country of the Nadouessioux as far as its mouth at the Gulf of Mexico."

THE MASSACHUSETTS BAY COMPANY'S CHARTER.

1684. The Court of Chancery of Westminster, England, decreed that the patent of Massachusetts should be brought into court and cancelled.

THE MASSACHUSETTS BAY COMPANY'S CHARTER.

1691. William and Mary, King and Queen of England, granted a charter uniting the colonies of Massachusetts, New Plymouth and others under the name of "Province of Massachusetts Bay in New England." This charter included the same territory in Iowa as did that of the charters of 1628 and 1629.

CROZAT'S PATENT.

1712. Louis XIV, King of France and Navarre, granted a patent to Anthony Crozat, for fifteen years, with the right to carry on a trade in the country between Carolina and New Mexico. The country was to retain the name of Louisiana and be annexed as a dependent of New France. The laws of France were extended to the province.

THE WESTERN COMPANY'S PATENT.

1717. Crozat surrendered his patent to the Crown of France, and King Louis XV granted to the Western Company, for twenty-five years, the exclusive commerce of Louisiana, and the right of beaver trade with New France. The charter gave rights of civil and military jurisdiction. It was surrendered to the Crown in 1730.

THE ACT OF FONTAINBLEAU.

1762. A preliminary treaty was signed between England, France and Spain, by which it was agreed that the boundary between the provinces of England and France should be irrevocably fixed by a line drawn in the middle of the Mississippi river, from its source to the Iberville, etc. Louis XV, King of France, ceded Louisiana to Spain. The province was formally taken possession of August 18, 1769. By this treaty the territory comprised in the bounds of the State of Iowa was definitely placed in the Province of Louisiana, and the rights of the English claimants terminated.

THE TREATY OF PARIS.

1763. A definite treaty was signed between England, France and Spain, confirming the boundary between the possessions of England and France as agreed upon by the Act of Fontainbleau, of 1762.

THE TREATY OF ILDEFONSO.

1800. A secret agreement was entered into by which the King of Spain was to re-cede the Province of Louisiana to France, upon a fulfillment of certain considerations to be performed by the French Republic.

The agreement of the Treaty of Madrid, made the following year, provided that the retrocession of Louisiana as provided in the Treaty of Ildefonso should be carried out.

THE TREATY OF PARIS.

1803. France ceded the Province of Louisiana to the United States. The treaty was ratified and proclaimed October 1, 1803. The Province comprised all west of the Mississippi river north and east of the Spanish possessions, with the Island of Orleans.

DISTRICT OF LOUISIANA.

1804. That part of the Province of Louisiana south of the thirty-third parallel was detached to form the Territory of Orleans, by act of Congress, and the residue named "District of Louisiana," and placed under the control of the Governor and Judges of the Indiana Territory.

TERRITORY OF LOUISIANA.

1805. A territorial government was established by Congress in the District of Louisiana, and the name changed to "Territory of Louisiana."

TERRITORY OF MISSOURI.

1812. The government of the Territory of Louisiana was re-organized and the name changed to "Territory of Missouri."

TERRITORY OF MISSOURI.

1821. Missouri was admitted as a State, and the remaining portion of the territory, that part north and west of Missouri and Arkansas, left without any form of government.

MICHIGAN TERRITORY.

1834. The boundaries of Michigan Territory were extended by act of Congress westward to the Missouri river. This act again placed Iowa among the governments east of the Mississippi river. Michigan Territory extended from Lake Huron to the Missouri river, and from the States of Ohio, Indiana, Illinois and Missouri north to the British possessions.

WISCONSIN TERRITORY.

1836. Michigan Territory was divided by act of Congress April 20, 1836, and the western part established as "Wisconsin Territory."

IOWA TERRITORY.

1838. Wisconsin Territory was divided by act of Congress of June 12, 1838, and the western part given a territorial government and named "Iowa Territory." This Territory embraced the territory of the present State of Iowa, North and South Dakota east of the Missouri and White Earth rivers, and Minnesota west of the Mississippi river and a line drawn from its source to the British possessions.

STATE OF IOWA.

1834. Application was made to Congress Feb. 12, 1844, for admission of Iowa as a State. On the first day of November of that year a Constitution was adopted by a Territorial Convention. An act of admission was passed by Congress on the 3d day of March, 1845, but at the election held on the 4th of August following the people rejected it. The reason for this action is given below. On the 18th of May, 1846, another constitution was adopted by a second convention, called for that purpose. The Constitution proved acceptable to the people and was adopted at an election held Aug. 3, of the same year. On the following day, Aug. 4, 1846, Congress passed an act repealing the law of March 3, 1845, and accepting the boundaries of

the State as defined in this last constitution and as they exist to-day. On the 28th day of December, 1846, Congress passed an act admitting Iowa as a State in the Union. The boundaries were set forth in the act as follows:

"Beginning in the middle of the main channel of the Mississippi river, at a point due east of the middle of the mouth of the main channel of the Des Moines river; thence up the middle of the main channel of the said Des Moines river to a point on said river where the northern boundary of the State of Missouri—as established by the Constitution of that State, adopted June 12, 1820—crosses the said middle of the main channel of the said Des Moines river; thence westerly along the said northern boundary line of the State of Missouri, as established at the time aforesaid, until an extension of said line intersects the middle of the main channel of the Missouri river; thence up the middle of the main channel of the said Missouri river to a point opposite the middle of the main channel of the Big Sioux river, according to Nicollett's map; thence up the middle of the main channel of the Big Sioux river, according to the said map, until it is intersected by the parallel of forty-three degrees and thirty minutes, north latitude; thence east along said parallel of forty-three degrees and thirty minutes, until said parallel intersects the middle of the main channel of the Mississippi river; thence down the middle of the main channel of the Mississippi river to the place of beginning."

Reference is made above to the fact that the first constitution and act of admission of Iowa Territory as a State were rejected by the people. How and why this was done, the following paragraphs fully disclose. They are copied from an address by Hon. Theodore S. Parvin, before the Iowa Association of Pioneer Law Makers, February 10, 1892. These sentences are especially valuable, also, on account of the deserved tribute which they contain to the memory of the late Lieutenant Governor Enoch W. Eastman:

It may not be, and doubtless is not, known to the majority even of the Pioneer Law Makers' Association that the people of the State of Iowa are indebted more to Enoch W. Eastman for her present boundaries than to any other man, living or dead. When the constitution of 1844, prescribing substantially the same boundaries as now, was adopted by the Convention and sent to Congress for ratification before being submitted to the people for their approval, Congress struck out the boundary and in lieu of that adopted by the Convention, and since established, provided that the western boundary should be a line drawn from near the intersection of the Little Blue Earth river with the Minnesota river south, passing about thirty [really forty] miles west of the Raccoon Forks, or the present city of Des Moines, to the Missouri line, thus cutting us off from the western half of the State, known in later years as the "Missouri Slope," and directed that the boundaries as prescribed be submitted to the people.

All the office-holders and office-seekers were anxious for the adoption of

the constitution to the end that they might secure the preferment they desired. Mr. Eastman, then a young lawyer recently arrived at Burlington from New Hampshire, where he was born in 1810, united with the late Captain Mills, who lost his life during the Mexican war, and also a prominent attorney of the same place, to defeat the measure before the people. They undertook to stump the Territory, but finding the job too large a one, they invited myself to relieve them in the Second Judicial District of the Territory, which I did, taking as a text of my discourse before the people the famous distich of Bishop Berkley, "Westward the course of empire takes its way," and from that I proceeded to urge the people to insist that inasmuch as emigration followed the parallel lines of latitude, we should insist upon our State extending to the Missouri river, and that the only way to accomplish this would be the rejection of the boundaries prescribed by Congress.

Our efforts in the First and Second Districts were successful and the Constitution [of 1844] was defeated by some 400 votes, and but for the efforts of Mr. Eastman in organizing that effort and combination against its adoption, the Congressional boundaries would have been imposed upon our people and there would now be two states where there is but one—Iowa.

The setting forth of the boundary of the proposed State, as stated by Mr. Parvin, seems to be a little indefinite, and not to include all the territory which the people asked for in the Constitution of 1844. The Constitution included all that part of the present State of Minnesota south and east from a line drawn from the mouth of the Sioux or Calumet river to the southerly bend of the St. Peters—now the Minnesota—river, and thence by that river to the Mississippi, and excluded that part of the present State of Iowa northwest of the Sioux river. The act of Congress of 1845 provided as the boundary a parallel passing through the mouth of the Mankato or White Earth river, from the Mississippi to the meridian of 17° 30' west from Washington, and thence due south to the boundary line of the State of Missouri.

FIRST ANNUAL REPORT OF THE IOWA GEOLOGICAL SURVEY.

The first official report of the Geological Survey of Iowa, for which the last General Assembly made provision, has just left the hands of the printer and is now ready for distribution. Two attempts have been made already to investigate the material resources of Iowa; one in the fifties and the other more

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