

## Pays Tribute to Samuel Maxwell in Law Journal

Samuel Maxwell, One Time Resident of Plattsmouth, Pioneer Jurist Has Colorful Career

(By J. M. KLOTSCHIE.)

As judge of the supreme court of Nebraska for twenty years, Samuel Maxwell's life is closely connected with the judicial development of the state. He served on the bench when Nebraska was still in frontier state and while judicial tradition in Nebraska was in the making. Maxwell's life was also closely interwoven with the political history of the state. As a member of several territorial legislatures and of three constitutional conventions he played an important part in formulating the constitutional and statutory law of Nebraska.

### Early Life

Samuel Maxwell was born near Lodi, N. Y., on May 20, 1825. His mother, Margaret Crosby, who was the daughter of wealthy parents, had been given a good education. This proved a great value to Samuel, as his education in the common schools was supplemented at home under the direction of his mother. His father, Robert Maxwell, had been a wealthy farmer, but, due to inability to handle business matters, had met with financial reverses while Samuel was in his youth. As a result of this failure the Maxwell family moved to Michigan, then a frontier state of some two hundred thousand people, in 1844. Here it became necessary for Samuel to aid in establishing a home and in supporting the family.

Young Maxwell devoted his first year in Michigan to labor on the farm. The following fall he was able to secure a position teaching school. He taught school for several years during the winter, engaging in farm work during the summer. In 1853 he was issued a certificate which authorized him to teach in the public schools of the Township of Waterford for a period of two years. It was at this time that he began his law studies.

In 1856 Samuel Maxwell moved to Nebraska and settled on a claim which lies south of the present site of Plattsmouth. Plattsmouth at that time was but a small village containing three or four frame cabins and one log cabin. He cleared as much of his land as possible and by 1857 had cut enough logs to construct a fence enclosing one hundred acres.

In this same year he was induced to become a candidate for the territorial legislature. He was defeated in the election, due possibly to the fact that he failed to carry on a canvass for the office. Maxwell throughout his political career refused to "go on the stump" in order to gain an office.

Maxwell returned to Bay City, Michigan, in the fall of 1858, where he continued the study of law in the office of his brother, A. C. Maxwell. After his admission to the bar in Michigan, he returned to Nebraska in the fall of 1859, expecting to open a law office in Plattsmouth, but was unable to purchase a suitable library.

In 1859 he was elected to the legislature of Nebraska territory, serving in the sixth session which convened on December 5, 1859, and adjourned on January 13, 1860. He supported a joint resolution for the prohibition of slavery in the territory. He also favored a bill to exempt the homestead and articles of personal property from forced sale on execution.

Maxwell returned to his farm after he had completed his term in the legislature and from 1861 to 1864 in addition to carrying on his routine work, acted as a collector for William McCormick, a friend of his residing at Worthington, Indiana. McCormick, who had loaned money to many residents of Nebraska during the boom period, had employed Maxwell to enforce collection of the indebtedness. During a period of four years he collected about one thousand dollars, a large portion of the amount being paid in gold coin.

### Territorial Legislature

From 1865 to 1866 Maxwell served in the tenth and eleventh territorial legislatures and was placed on several important committees. As a member of the judiciary committee he urged the advisability of revising the laws of Nebraska. In connection with his report as chairman of this committee, he introduced a bill providing for this revision which was duly passed. Under its provisions the Revised Statutes of 1866 were published.

### Statehood

On April 19, 1864, Congress passed an enabling act, which authorized the governor of the Nebraska territory to call an election of members to a constitutional convention. Maxwell was elected to this convention, which met on July 4, 1864. After electing officers, the convention by a vote of 37 to 6 adjourned sine die. The people of the territory were not yet ready to accept the privileges and the responsibilities of full membership in the Union. The Platte River had served as a geographical division on the question of statehood. All members of the convention elected from the counties north of the Platte, with the exception of Douglas, had voted for statehood, while all members elected from counties south of the Platte, with the exception of Richardson, had voted against it. Maxwell had originally opposed the statehood movement. As a member of the sixth territorial legislature, however, he supported the bill which provided for an act to frame a constitution and state government

for the proposed state. Again in the seventh legislature he favored a joint resolution to submit a constitution for a state government to the people for their approval or rejection. In order to defeat this proposition, Charles H. Brown, a democratic leader from Douglas county, offered a resolution to the effect that the people of the territory should first ask for statehood before that question be submitted to them. This resolution was opposed by Maxwell.

By a vote of the people, June 2, 1866, a constitution, which had previously been adopted by the legislature, was passed and the first legislature of the state met on July 4 of that year. The chief purpose of this session was the election of two United States senators. The seats of the four Cass county representatives, Samuel Maxwell, H. D. Hathaway, L. R. Bell, and W. F. Chapin, were contested. Excluding these four members there were seventeen republicans and seventeen democrats in the House. The Cass county board had issued certificates of election to these men and they were allowed to vote on the question of the contested seats. The vote resulted in seating the entire delegation.

Before a vote was taken on the election of United States senators, J. W. Paddock, in an effort to block the statehood movement, offered a resolution that the House adjourn sine die. When the vote was taken on this resolution, Maxwell cast the deciding vote against adjournment and statehood became a reality. The two United States senators elected were T. W. Tipton and John M. Thayer.

Maxwell refused to run for reelection to the House in 1866. In the same year he received a certificate of admission to practice law in several district courts of Nebraska Territory. The following spring the law firm of Maxwell and Chapman was formed in Plattsmouth. This partnership lasted until 1872, when Maxwell was first elected to the state supreme court.

### Constitutional Convention of 1871

In 1871 Maxwell was elected to the Constitutional Convention and came prominently identified on several important committees. The question of compulsory education played an important and interesting part in the proceedings of this convention.

The article on education provided for compulsory attendance in the common schools and for the establishment of a reform school. Maxwell strongly opposed the compulsory provision of the article as a part of the constitution. Although he was "in favor of having all children of suitable age attend school," he did not think advisable to include this section in the constitution. He argued if this proposition were inserted, the people of the state would be compelled either to adopt it or to reject the entire constitution. He also opposed the provision for the establishment of a reform school. He proposed that the provision for compulsory education and the establishment of a reform school should be passed upon as independent propositions, so that the constitution would not be rejected because of this article. "Does not the fact," he said, "that these parties insist so strongly that it shall go into the constitution show that they have fears it will not carry an independent proposition." He further said the measure if passed would greatly increase the expenditures of the state. Maxwell succeeded in winning the majority of the convention to this point of view and the section dealing with education was submitted to the popular vote as an independent proposition.

Another problem before the convention was that of the railroads. The first transcontinental railroad had been completed a few years earlier and local railroads were being projected in the various states. This extensive railroad building and the problems created thereby caused much discontent in the West. Agitation looking to legislative control and regulation had resulted in the formation of various state Granges. The spirit of the Granger movement had been reflected in the constitution of Illinois a few years earlier. The corporation was looked upon as an evil influence, a force that should be regulated by law. As this anti-monopolistic spirit dominated in the Nebraska Constitutional Convention to curb the power of the railroads.

Maxwell was opposed to monopolies, but believed that railroad building should be encouraged. He argued that it would increase the value of the property, thereby repaying the people of the state tenfold. He proposed that a provision be inserted in the constitution which "would prevent general benefits being assessed against individuals." This proposal, although defeated in the convention of 1871, was adopted in the constitution of 1875.

Maxwell further urged that the salaries of officials be kept at a low level. His argument was that settlers were continually coming into the state and that in addition to the cost involved in locating in a new community, the existing taxes were sufficiently high to make a comfortable living a real problem to them. Many people, he pointed out, were living in "temporary habitations, mud houses, and log huts," and had all they could do to get along. This position was thoroughly consistent with his previous and later attitude on economy in state expenditures.

Proponents of high salaries argued that capable men could not be induced to accept state offices at salaries which would mean financial sacrifice. In reply to this argument, Maxwell said that good men would accept positions of honor at the lower salary because they had "sufficient pride to discharge duties." This was perhaps true in every case, but it was certainly consistent with the position taken by Maxwell in later years when he declined a more luc-



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For weeks we have been preparing for this event—our greatest single advance in the 39 years we have been serving the needs of Cass county buyers. The sound of saw and hammer has ceased and only a few finishing touches remain before we throw open the doors of our new and improved store Saturday morning with prizes and favors for everyone and an array of Bargains such as you have never seen before. Come, be our guest and help us celebrate.

Of far greater import than even our new, modern store arrangement, is our association with the INDEPENDENT GROCERS' ALLIANCE, the most powerful buying organization in the country today, composed of hundreds of individual merchants who apply chain store principles only to their buying, and conduct their own individual businesses as they see fit. Through this connection we are able to save from 5 to 15 per cent on practically all our purchases, and will pass the savings on to you in LOWER PRICES, such as you see listed below. Values no one can beat!

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### FREE PRIZES!

A Live Calf — Smoked Ham — Sack of Flour  
3-lbs. Coffee — Box of Crackers

Everyone can enter the guessing contest! We want you to come in and hear the music—see the sensational values and the fine new store we have arranged for your convenience—get acquainted with our new method of grocery merchandising. Ask us for details of how these prizes will be given!

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- Tomatoes, No. 2 size cans, 4 for . . . . . 33c
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- Jello, any flavor, per package . . . . . 8c
- Campbell's Tomato Soup, per can . . . . . 8c
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- Kellogg's Corn Flakes, large, 3 for . . . . . 29c
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- Del Monte Peaches, No. 2 1/2 size can . . . . . 22c

- Hard Water Castile Soap, 4 bars . . . . . 25c
- Pineapple, broken slices, 4 lg. cans . . . . . 95c
- Krispy Crackers, 2-lb. caddy . . . . . 32c
- Carnation Milk, tall cans, 3 for . . . . . 29c
- Granger Mayonnaise, two 8-oz. jars . . . . . 45c
- Van Camp's Pork and Beans, 3 med. size . . . . . 27c
- Grape Fruit, good quality, No. 2 tins . . . . . 25c
- Otoe Kidney Beans, med. size, 3 for . . . . . 25c
- Welch Grapelade, 15-oz. jars, 4 for . . . . . 95c
- Olives, full quart jars, each . . . . . 49c

- Honey, strained, 5-lb. pail . . . . . 59c
- Hershey's Cocoa, per can . . . . . 19c
- Swans Down Cake Flour, per pkg. . . . . 32c
- Morton's Iodized Salt, per box . . . . . 10c
- Ginger Ale, 2 qt. bottles for . . . . . 45c
- Sardines in Tomato Sauce, 2 cans for . . . . . 25c
- White King Washing Machine Soap, lg. . . . . 44c
- Old Prague Malt, per can . . . . . 49c
- Bottle Caps, double lacquered, per lb. . . . . 19c
- Bottles, full quarts, per dozen . . . . . 85c

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Good Standard Quality  
3 cans for  
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Fine Grade, Safety Tips  
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10c Loaf for  
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White Laundry Brand  
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