

**PROCEEDINGS OF THE FIFTH ANNUAL  
MEETING OF THE ARKANSAS STATE  
BAR ASSOCIATION HELD AT LITTLE  
ROCK, ARK., WEDNESDAY, JAN. 6,  
1886**

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Proceedings of the Fifth Annual Meeting of the Arkansas State Bar Association Held at Little Rock, Ark., Wednesday, Jan. 6, 1886 by Various

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GAZETTE PRINTING COMPANY.  
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## BAR MEETING.

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The fifth annual meeting of the Arkansas State Bar Association was held in the United States court-room, in the City of Little Rock, beginning at 10 o'clock, A. M., Wednesday, the 6th day of January, 1886. The following proceedings were had, to-wit:

In the absence of the President, W. P. Grace, the Association was called to order by W. W. Smith, Chairman of the Executive Committee, who called J. H. Crawford, Eighth Vice-President, to the chair, in the absence of all senior vice-presidents.

By leave, the Secretary was given until this afternoon session to make report.

W. H. Cate, Second Vice-President, appearing, was conducted to the chair and assumed the duties of President of the Association.

The Treasurer made report, showing the amounts received and disbursed, leaving a balance in the treasury of \$478.97.

The report, upon motion, was referred to the Executive Committee.

The election of officers for the ensuing year, being next in order, was upon motion postponed until 3 o'clock, P. M.

The Committee on Memorials was given until tomorrow morning session to make report.

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Charles Coffin, being introduced, read the following paper on "Property Exemptions:"

## PAPER OF CHARLES COFFIN.

The State of Arkansas, like many others of the United States, has, from time to time in recent years, provided in its Constitution and by Statutes, that a limited amount of property, both personal and real, in the hands of residents, might be exempted from sale under process of the courts for all debts by contract, except for the purchase money of specific property on which a lien is by law reserved by the vendor.

The prime motive of the law-makers, as interpreted by the courts, seems to have been for the protection of the poor; but if the practices and laws which have grown out of this provision are constitutional, it is very questionable whether the intended blessing has not proven to be an evil. At any rate, some of the statutes seem to be anomalous, when compared with the constitutional provision and the motive that inspired it.

Now, if the constitutional provision is right in principle, it seems to me that it should give absolute protection, and that its protection should not be nullified, either by statutory modification or by executory contracts.

But is the law right in principle?

The universal law of contracts permits every man of sound mind and lawful age to bind himself, for a consideration, to do or not to do a particular thing. And all contracts to pay money at a future time, are based by the creditor, either upon his faith in the honor and ability of the debtor to pay according to his promise, or upon his reliance upon the law to subject his property to the process of the courts for the satisfaction of the debt if the payment is not voluntarily made. In this State the persons most affected by the laws under discussion are practically limited to two classes, and I shall consider them in their effect especially upon these two classes, viz.: Merchants and farmers—and I take the position that in their transactions under these laws, both are ultimately injured, and as they comprise so large a proportion of the entire body politic, the whole State thereby suffers.



For convenient illustration, take an ordinary mercantile transaction, when goods are sold on a credit. The merchant sells and delivers his merchandise, under ordinary conditions, and reasonable information as to the ability of the debtor to pay for them on the maturity of the time agreed upon. The other party receives and promises to pay at a certain time in the future, but may, deliberately, during the entire period of credit, so dispose of his property as to reduce it to an amount in value within the limit of exemption, and then take advantage of the law and reserve that amount from sale for the payment of his just indebtedness.

But, says one, the creditor knew of the law and the privileges under it, when he extended the credit, and sold subject to the law. True; but the law as it is, being indefinite as to what property is to be exempted, only covering it with the broad description of a limited value, in specific articles to be selected by the debtor, if he sees proper to avail himself of the law, not when the obligation was entered into, but after he has received the benefit of it and the time has come for its satisfaction. Under such conditions can the creditor be so thoroughly advised as to enable him to make the contract under the law on equal terms with the man who not only knows thoroughly his own means, but, what is frequently of more importance, his own intentions at the time he received the property of the other? This objection applies with less force to the homestead exemption, because, on account of the laws governing its benefits and also the record of land deeds, a better means of information as to real estate transfers is prevalent, than can be had of personal property, to which title may so readily pass by delivery.

But the worst results of the law, as it is, do not fall upon the creditors. Independence and self reliance are the foundation stones to the structure of true individuality, without which, first-class citizenship, in a free commonwealth, is impossible. The highest type of manhood scorns an obligation which it cannot reciprocate or repay. The debtor who takes refuge behind the

exemptions of the law, and especially under the provision which requires him to plead it, and is forced to schedule his property claimed under it, to a great extent is compelled to forfeit his self respect, under the consciousness that he has wronged his creditor. And thus begins a march toward callousness, by at first apologizing to himself, under the plea of necessity, for his conduct, and ends by becoming hardened to such an extent that he does not even want to pay the debt, and then deliberately goes about making other debts to settle in the same way. By this process his honor is smirched, his self reliance is broken down, his self respect is lost, and he becomes a parasite on society. Can such a man make a good citizen in a free government?

To protect themselves, merchants and tradesmen have procured the enactment of laws, which, without being more specific, may be summed up into what is known as the chattel mortgage system, and refuse to sell their property on credit unless protected by a mortgage, which usually covers everything the mortgagor has in sight, with a draft on futurity for all its possibilities of payment or disappointment; and to guard against the latter, resolve themselves into task-masters and usurers, setting a limit on the amount sold, but none in reason on the price charged. And thus the poor debtor becomes a slave, not so much to his own necessities as to the law, and bound hand and foot, as it were, without crime, is stripped of the refuge that was built for him, and drained of his sweat and blood to meet the exactions of the day, certain to come, when his relentless creditor shall sit in judgment and pronounce him guilty of shortness of crops, and consequently of purse, and condemn him to another period of involuntary servitude under a bill of sale executed by himself.

And all this in the face of a constitutional provision which declares that he should have personal property to a certain value, to be selected by himself, exempted from execution; and another which says: "There shall be no involuntary servitude except as a punishment for crime."

But, says the creditor, it is not involuntary, because a man need not so bind himself unless he chooses to do so. There is no duress equal to a man's present and pressing necessities. Take an average Arkansas farmer to-day; he may or may not have worked under a mortgage last year; however that may be, his calculations have failed, drouth has cut short his crops, and low prices for what he has produced have still further discounted his ability to meet his obligations; his last dollar has gone to pay his taxes; there are some things which his family have been accustomed to have, which can only be procured at the stores; he hopes things will be better another year; he can't sell his live stock for money except at a ruinous sacrifice; the merchant holds out, as he thinks, favorable inducements; he signs the fatal mortgage—and his freedom is at an end. He can trade at but one place, and has practically nothing to say about the prices he is charged. A place where he could borrow money at usury would be an asylum to him—yet usury is unlawful. I have known men—laboring men, farmers and renters—to pay twenty and twenty-five per cent. interest for money, and secure its payment, rather than mortgage their property and buy supplies on credit. Those men thought they would be robbed by the merchants; the merchants expected to lose by some of their debtors, and thought they ought to make it up on others. Well, highway robbery has some advantages over other processes; the period of suspense is of shorter duration, the agony is sooner over, the loss has only been what was in sight, there is no lien on futurity to be foreclosed, there may have been a reserved fund that was not carried on the person.

The doctrine of reprisal is almost a part of man's nature. Under certain conditions it easily becomes so by provocation. In the practices I have attempted to describe, each party having lost confidence in the other's honesty endeavors to get the advantage for himself, and what ought to have been an ordinary business transaction, based on mutual confidence and