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The Southern Boundary of Iowa

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land so pre-empted or homesteaded." "All such claims" (meaning such pre-emption and homestead claims as had just been described) and all the facts in regard thereto "shall be reported to Congress; provided further, that said claims, except those hereinbefore indicated" (meaning the same pre-emption and homestead claims last referred to) "shall be paid in the order of their approval by the Secretary of the Interior, and no money shall be paid thereunder, in any case, until the findings of the commissioner in such case, are approved by the Secretary of the Interior, who shall have full authority to control all proceedings authorized by this paragraph."

I cannot better conclude these papers than in the words of Justice Brewer when he had concluded the reading of the opinion of the Supreme Court—"*Requiescat in pace.*"

THE SOUTHERN BOUNDARY OF IOWA.

BY FRANK E. LANDERS.

An Iowan looking on the map of his State is always pleased with its figure, and to him it is more than most pictures created by the skill and imagination of the artist. From her position with sister States, and her great resources, she has been rightfully termed the "Central Kingdom." Her limits to the north, an overland straight line, and the rivers on her eastern and western borders, winding their way southward, form a pleasing outline; but on the south some mistake seems to have been made. The line is broken about two-thirds of the way to the westward, the eastern part running from there north of east, cutting diagonally the townships and sections of the Government land surveys. The question is often asked—"Why the land survey lines and the boundary are not parallel throughout the entire line?"

It is the object of this article to present in as simple a manner as possible, the principal data that can be gathered from the acts of Congress, and the General Assemblies of Iowa and Missouri, treaties with the Indians, reports of the Supreme

Court of the United States, together with other reports and papers relating to the southern boundary.

The real cause of the line not conforming to the land surveys is, that the former is a perpetuation of an old Indian boundary, while the latter is made from a series of parallels of latitude. In order to locate the Indian boundary, and define its bearing on the final establishment of the boundary line between Iowa and Missouri, it is necessary to trace its history through many acts of Congress and Indian treaties to the final decree of the Supreme Court of the United States.

On the 10th day of November, 1808, a treaty was concluded at Fort Clark, on the Missouri River, between Peter Chouteau, agent of the Osages, commissioned by Meriwether Lewis, Governor of the Territory of Louisiana and Superintendent of Indian Affairs, and the chiefs and warriors of the Great and Little Osage. The Indians agreed and covenanted with the United States that the boundary line between the two nations and the United States should be as follows:

"Beginning at Fort Clark, on the Missouri five miles above Fire Prairie, and running thence a due south course to the Arkansas, and down the same to the Mississippi; thereby ceding and relinquishing forever to the United States, all the lands which lie east of the said line, and north of the southwesterly bank of the Arkansas, and all lands situated northwardly of the Missouri, and it was mutually agreed by the contracting parties, that the boundary line thereby established, should be run and marked at the expense of the United States as soon as circumstances and their convenience would permit."

It was further agreed that the Osage Nation should send two Indians to accompany the surveyors, the better to designate the bounds of the country they stipulated to cede. The treaty was ratified by the United States April 28, 1810. A renewal of the treaty was made in 1815.

July 23, 1816, John C. Sullivan was appointed principal deputy by the Surveyor General of the United States and sent with instructions to run the Osage boundary line north of the Missouri River. He commenced the survey on the east bank of the Missouri opposite the mouth of the Kansas River and ran a due north course one hundred miles and established a corner. From that corner he ran eastwardly to the Des Moines

River, a distance of about one hundred and fifty miles. The line was marked as well as could be done with the limited means at hand, by wooden stakes and blazes on the trees of the forests. Sullivan completed the survey September 30, 1816, at the Des Moines River.

Missouri was admitted as a State August 10, 1821, from a part of the Territory of Missouri, which had formerly been established from a part of the Territory of Louisiana. The boundaries of the new State, as given in its constitution, provided that its south line should run west

"to a point where the said parallel is intersected by a meridian line passing through the middle of the mouth of the Kansas River where the same empties into the Missouri River, thence from the point aforesaid north, along the said meridian line, to the intersection of the parallel of latitude which passes through the rapids of the River Des Moines, making the said line to correspond with the Indian boundary line; thence east from this point of intersection last aforesaid, along the said parallel of latitude to the middle of the channel of the main fork of said River Des Moines, * * *."

The western boundary of the State was made contingent on the old Osage Indian boundary line which had been run in 1816; the northern on the northwest corner of the Indian boundary and the "rapids of the River of Des Moines," which two points were indicated as lying in the same parallel of latitude. The exact location of the northern line was not called in question for many years after the admission of Missouri, the territory beyond being under the control of the Indian tribes and without any form of civil government except their own.

August 4, 1824, a treaty was concluded at Washington between William Clark, Superintendent of Indian Affairs, and the chiefs and head men of the Sac and Fox Nations of Indians. According to the terms of the treaty the said Indians ceded to the United States all claims which they had in the State of Missouri, the limits of which were described in part as

"a line running from the Missouri at the entrance of the Kansas River, north one hundred miles to the north west corner of Missouri and from thence east to the Mississippi; reserving for the use of the half-breeds be-

longing to the Sock and Fox nations, the tract between the Des Moines and Mississippi, and the section of above line between the Mississippi and Des Moines."

The Sac and Fox Nations had claimed ownership of the land in Missouri north of the Missouri River and west of the boundary line fixed by the treaty of November 3, 1804, running from the Missouri "opposite the mouth of the Gasconade in a direct course so as to strike the River Jeffreon, at a distance of thirty miles from its mouth," the same being a part of the lands ceded to the United States by the Osages in 1808. The United States in this last treaty with the Sac and Fox Nations, defined the northern boundary differently from that given in the constitution of the State, by not designating any fixed point of intersection with the Des Moines River.

The boundaries of Michigan Territory were by act of Congress of June 23, 1834, extended westward to the Missouri River and southwest to the State of Missouri. The southern boundary of the annexed portion of the territory as defined in the act was, "on the south by the State of Missouri, and a line drawn due west from the northwest corner of the State of Missouri to the Missouri River." July 3, 1836, Wisconsin Territory was established from the western part of Michigan Territory. Its boundary on Missouri and westward was defined similar to that of Michigan Territory.

On the 7th of June, 1836, Congress passed an act which provided

"That when the Indian title to all the lands lying between the State of Missouri and the Missouri River should be extinguished, the jurisdiction of said lands should be ceded to the State of Missouri, and the western boundary of said State should extend to the Missouri River."

The State of Missouri assented to the act of Congress December 16, 1836, and the territory was annexed by proclamation of the President March 28, 1837, the Indians having by several treaties previously ceded the lands in question to the United States.

The State of Missouri, after the extension of its limits, took immediate steps to locate the northern boundary of both the original State and the newly acquired territory, and by an act

of the General Assembly approved December 21, 1836, authorized the Governor, with the advice and consent of the Senate, to nominate and appoint "three commissioners to ascertain, survey and establish the north boundary of the State, and ascertain the point of commencement and termination thereof," as the same was "fixed and described by the constitution of the State and the act of Congress on the sixth day of March, 1820, and the act of Congress approved the seventh of June, 1836." The commissioners were to determine the latitude and longitude of the eastern point of termination "in the rapids of the River Des Moines and thence passing west on that parallel of latitude, to where the same strikes the Missouri River." The Governor was also "authorized to open communication with the President of the United States, and with the Governor of the Territory of Wisconsin," and to request the appointment of like commissioners. The act further provided that in case the United States and the Territory of Wisconsin did not appoint commissioners "within the space of six months" the commissioners of Missouri were to be directed to proceed with the survey. Both the United States and the Territory of Wisconsin failing to comply with the request within the prescribed six months, Joseph C. Brown was appointed by the State of Missouri to survey the boundary. He commenced work in July, 1837. After traversing the Des Moines River for several miles to ascertain the principal rapids he selected as the "eastern point of terminal" a point on the right bank of the Des Moines River at the "Big Bend," being some ten miles north of the Sullivan line of 1816, and from that point ran a due west course to the Missouri River. On the 11th of February, 1839, the General Assembly passed an act declaring the line run and marked by Brown to be the northern boundary line of the State.

The State of Iowa was admitted by act of Congress of December 28, 1846. The State constitution had been adopted by a vote of the people August 3, and on the day following, Congress passed an act repealing former acts, and defining

the boundaries of the State the same as they were in the constitution, 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 line of the State of Missouri—as established by the constitution of that State, adopted June 12, 1820—crosses the 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, * *."

The act of Congress of July 3, 1838, establishing Iowa Territory, made no mention of the southern boundary. The first session of the General Assembly convened November 30, 1846, nearly a month previous to the passage of the act of admission. One of its first acts—December 7—was a passage of a resolution by the Senate requesting Governor Briggs to furnish that body with such information as might be in his possession relative to the southern boundary of the State. Three days afterward the Governor, in response to the resolution, sent a communication to the Senate, accompanied by one from Governor Clarke, of Missouri, in which he recommended the enactment of a law "by which an agreed case might be made with the State of Missouri for the adjustment of the whole matter by the Supreme Court of the United States," and urged its speedy enactment, particularly on the ground of its importance and that the establishment of the line would depend to a great extent on the testimony of individuals who might die or not be found when wanted. On the 16th of January following the General Assembly passed an act —Chap. 3, 1. G. A.—by which the Governor was "authorized and empowered to agree with the State of Missouri for the commencement and speedy termination of such suit as might be necessary to procure a final decision by the Supreme Court of the United States upon a true location of the southern boundary of the State," the General Assembly of Missouri having passed an almost identical act March 25, 1845. The sum of one thousand dollars was appropriated toward carrying out the provisions of the act.

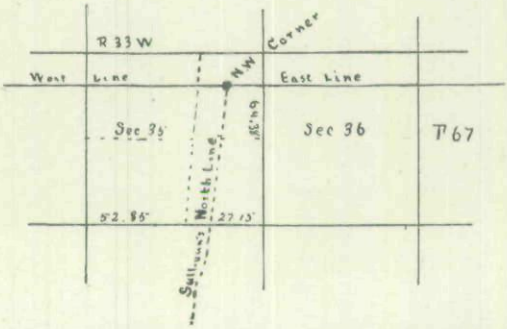
In February, 1847, Governor Briggs appointed Hon. Charles Mason, of Burlington, counsel on behalf of the State of Iowa, who met with the counsel of the State of Missouri at St. Louis in June, when an agreement was made to institute a suit in the Supreme Court of the United States. The State of Missouri filed the original bill December 10, and the State of Iowa filed a cross bill. The case was presented by Mr. Gamble and Mr. Green for Missouri, and by Mr. Ewing and Mr. Mason for Iowa. The counsel for the State of Missouri claimed "that the parallel of latitude passing through the Rapids of the River Des Moines at the big bend in latitude 40°, 44′, 06″ north would precisely and accurately satisfy the descriptive call of the constitution and was the true northern boundary of the State of Missouri, as established by her constitution." The counsel for the State of Iowa claimed that the lower rapids of the Mississippi, a few miles above the mouth of the Des Moines, were the only ones that in 1820 bore the name used in the constitution of Missouri as "the rapids of the River Des Moines," and that the parallel of latitude passing through the center of these was the true northern boundary of Missouri.

The Supreme Court at its December term, 1848, decided that neither of the parallels claimed as the boundary was the true one, and so rejected the claims of both States and entered a decree that the proper northern boundary of Missouri and the true southern boundary of Iowa was the line run and marked in 1816 by John C. Sullivan as the Indian boundary from the northwest corner made by Sullivan extending eastwardly as he ran and marked the said line to the middle of the Des Moines River, and that a due west line from said northwest corner to the middle of the Missouri River was the proper dividing line between said States west of the aforesaid corner; and that the States of Missouri and Iowa were bound to conform their jurisdictions up to said line on their respective sides thereof, from the River Des Moines to the River Missouri. The State of Missouri was perpetually enjoined and restrained from exercising jurisdiction north, and the State of Iowa south of said dividing boundary. The court appointed Joseph C.

Brown of Missouri and Henry B. Hendershott of Iowa, commissioners to find and mark the line run by Sullivan in 1816, from the old northwest corner to the Des Moines River, and to run a new line from said corner west to the Missouri River.

The commissioners met by agreement April 28, 1850, at the supposed site of Sullivan's northwest corner, the point where they were to commence their survey. No precise trace of the "old North West Corner" remained, "yet from the running of many experimental lines, diligently examining the evidences before them, together with the reports of the surveyors, they became satisfied of its proper position, and accordingly established it," in what was supposed by them to be the northeast quarter of Section 35, Township 67, Range 23, latitude 40°, 34′, 40.3″ north; longitude 94°, 30′ west.

The following diagram shows the supposed situation of the corner:



At the northwest corner they planted a solid cast-iron pillar weighing nearly 1,600 pounds, four feet, six inches long, and twelve inches square at its base, and eight inches at the top. The word "Missouri" was cast in its south side and "Iowa" in its north side, with "State Line" on the east. From this monument a line was run due west to the Missouri River, where a monument was planted similar to the one at the northwest corner. Another line was run from the same point of beginning eastwardly at a variation of from 8°, 45′ to 10° east along the Sullivan line to the Des Moines River, where another monument was planted. Iron pillars were set every tenth

mile on both lines. Besides the iron pillars, wooden posts were set every mile between, on the east line for the reason that the "public surveys of the lands of the United States were to be governed and closed on said line as run by the commissioners, and therefore the private titles would be established on both sides, the state line being the dividing boundary of such private rights."

At the December, 1850, term of the court, the commissioners made their report, and on the 3d day of January, 1851, a final decree was entered establishing the line as surveyed and marked, being a distance of 60 miles and 61 links due west from the northwest corner as established by them, through the iron pillars to the Missouri River, and eastwardly through the iron pillars and wooden posts to the Des Moines River, a distance of 150 miles, 51 chains and 80 links.

In running the east line, deviations frequently occurred of from one to three degrees, so that a corrected line would bear about two degrees north of east from the "old north west" corner, to its terminal point at the Des Moines River.

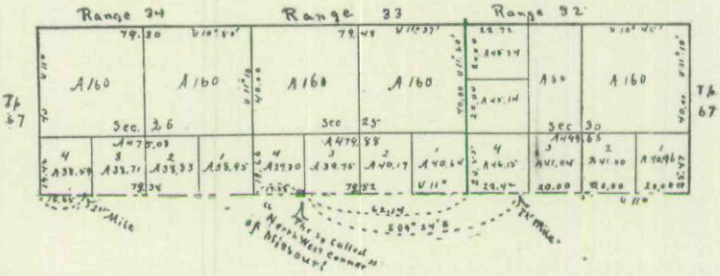
The conclusion of the labors of the commission, and final decree of the Supreme Court, settled a dispute that had been fraught with many scenes of border strife, and which was sure to continue, the State of Missouri being slave and the new State of Iowa free territory, and Missouri claiming according to her survey of 1837 jurisdiction over a strip of country of from ten to thirteen miles in width north of the settled boundary, the rights of which the free settlers of Iowa were ever ready to contest.

The total net expenses of the survey was $11,029.53, of which $3,514.76½ was taxed to Iowa, $2,000.00 having been previously paid from money borrowed by the Governor from the school fund on his own note and bond.

The surveys of the public lands in Iowa and Missouri were made from the 5th Principal Meridian and from the Base Line running through the mouth of the St. Francis River, Arkansas. Parallels or township lines, were run east and west six miles apart, and the townships, or strips of country between,

were numbered from the base line north. The southern boundary line of Iowa between the Des Moines and Missouri Rivers, lies in Township 67 north, running from the old northwest corner, due west to the Missouri, and from said corner about two degrees north of east to the Des Moines River, so that a distance north has been gained at the eastern terminal of about three miles. The township lines were run without regard to the Missouri and Iowa boundary. The subdivisions of Township 67 were made by running from the north and east lines south and west, closing on the south on the Sullivan line of 1816 and the Commissioners' boundary line of 1850, terminating in fractional sections and other fractional subdivisions.

The following diagram shows a section of the land surveys on the south line of Iowa, at the "Old North West Corner":



The "North West Corner" was designated in the boundary survey as being in the northwest quarter of section thirty-five. The lines of the land surveys bore about one-half mile further west and south than was apparently expected by the boundary commission, so that the corner is now shown to be in the southwest quarter of section twenty-five, Township sixty-seven, Range thirty-three.

In the foregoing pages I have merely attempted to trace the official history of the commencement, progress and termination of the "matter of difference" between Iowa and Missouri upon the question of boundary between them, and to account for its variation from the straight line one would reasonably expect to see in a region mapped by Government surveyors.

Yours. Alfred H Ebard

How the question led to a political imbroglio, which at one time threatened to result in open war between these States, I have not attempted to explain. This question of hostilities I leave to other pens.

Webster City, Iowa, Nov. 15, 1894.

THE BORDER WAR BETWEEN IOWA AND MISSOURI, ON THE BOUNDARY QUESTION.

BY HON. ALFRED HEBARD.

In our Territorial days there was little that marked any of the three administrations of the three Governors appointed to rule over us, except the Indian treaty negotiated by Governor Chambers* and the threatened Missouri border war, a sensational incident that occurred during the administration of Governor Lucas. Of the latter, I am not aware of any specific record now existing. As I understand it, the boundary between Iowa and Missouri was described as a line running due west from the Des Moines Rapids to the Missouri River. But the Des Moines Rapids in the Mississippi were twelve miles long, extending from Keokuk to Montrose, and a line drawn from any point in them due west would fulfill the conditions. No matter how it happened, there was a serious disagreement about the boundary, and as counties were organized on the opposite sides, there would inevitably grow up a conflict of authority. Iowa settlers tried, of course, to shove the line south. The Missourians tried to crowd it north. Sheriffs were chasing criminals back and forth, and sometimes were themselves arrested when serving civil processes, because they were beyond some supposed boundary. A state of confusion of course followed such a condition. The population along this disputed line was very sparse, scattered from grove to grove, most of whom on the Missouri side had drifted up from

*See page 397 Annals of Iowa, July, 1894.

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