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BOUNDARY LINE BETWEEN IOWA AND MISSOURI.

MEMORIAL

OF THE

CONVENTION OF THE STATE OF MISSOURI,

ON

The admission of Iowa into the Union, and on the northern boundary of the State of Missouri.

FEBRUARY 5, 1846.

Referred to the Committee on the Territories.

A memorial to Congress on the subject of the admission of Iowa into the Union, and on the northern boundary of Missouri.

Your memorialists the convention assembled at the city of Jefferson, in the State of Missouri, to alter and amend the constitution of said State, would

MOST RESPECTFULLY REPRESENT:

That at the last session of Congress application was made by the people of Iowa Territory for admission into the Union as a State, and for that purpose they presented a constitution, which, among other provisions, declared "that the old Indian boundary line, or line run by John C. Sullivan in 1816," should be the southern boundary of Iowa. Congress, with a full sense of the rights of the State of Missouri, and an evident disposition to recognise those rights by its solemn act, required the proposed constitution to be so changed as to make the "northern boundary of Missouri the southern boundary of Iowa." The people of Iowa have, as we are informed, refused to assent to this change, and are again applying for admission with their constitution unaltered. Under such circumstances, we cannot believe it necessary that we should remonstrate against her admission. We cannot believe it possible that Congress would attempt to deprive this State of any portion of its territory, and thus in fact alter its constitution. We cannot admit, nor can we imagine that it will be contended, that any power but the people of this State can make any change in that instrument. We would not suffer ourselves to fear for an instant that Congress would do less than require the northern boundary of this State to be the southern boundary of Iowa. Should Congress be unwilling to admit the full extent of our claim, and thus, while in its power, put an end to the unfortunate dispute between this State and the Territory of Iowa, it would never undertake indirectly to cast the weight of its decision into the scale against us, but would at the least leave the question, as now, to depend

upon the determination of our northern boundary, by making that the southern boundary of Iowa.

Our purpose is, however, to present our claim fairly to the consideration of your honorable body, in the hope, and under the conviction, that an impartial consideration of its merits must result in its recognition, and the final adjustment of the difficulties which must inevitably arise if it be not now determined.

The government of this State has, in its desire to preserve the peace of the republic, abstained from an enforcement of its rights—has proposed every means in its power consistent with its honor, for an adjustment of the dispute. Thus far our propositions have been rejected. The rights of our citizens have been repeatedly violated; the officers of our State not only resisted, but prosecuted for a faithful discharge of their duties. To all this have we submitted, until, indeed, further forbearance would be dishonorable to our character. The feelings of the people bordering upon the line have become excited, until a civil war is at any moment liable to be kindled.

These considerations seem imperatively to call for speedy and decisive action. It is yet in the power of Congress, by a simple act of legislation, to define the boundaries of Iowa, and forever put an end to all further difficulties. Sheer justice and sound policy both demand early action at your hands.

It is not in the power of Congress to alter the boundaries of Missouri. But Congress has ample power, not only to fix the boundaries of Iowa, but, if need be, to attach a portion of that Territory to this State. In consideration of the serious evils which must attend the settlement of this dispute should it be left open until Iowa becomes a State, sound policy and a regard to the peace and happiness of the people would require its immediate settlement. The amount of territory in dispute is comparatively trifling; and as it is yet but sparsely inhabited, no serious evil could arise from its being attached to this State. Admitting that the people are equally divided in their feelings and wishes, it would not be a consideration worthy a moment's hesitation, when contrasted with the misfortunes which must attend a continued dispute.

But we do not ask a decision for us, as a matter of favor, or even upon the ground of policy. *We demand it as our right.* We offer the evidence, and we feel assured that our claim must be admitted to be just and legal.

We claim to the line known as *Brown's line*, which is a "parallel of latitude passing through the rapids of the river Des Moines."

We deny that the "old Indian boundary line, or line run by John C. Sullivan in 1816," is our northern boundary.

We will briefly present the evidence to sustain our claim, and ask its attentive consideration.

The Indian boundary line was run in 1816, and was well known to the legislature of Missouri Territory, which met in 1818.

It was known to Congress in 1820.

It was known to the convention which formed the constitution of Missouri in 1820.

It was well known to the Hon. John Scott, the delegate from the Territory of Missouri, and who, as chairman of the committee, reported the bill to authorize the people of that Territory to form a constitution.

On the 22d November, 1818, the legislature of Missouri Territory pre-

sented a memorial to Congress, asking permission to form a State government within the following limits: "Beginning at a point in the middle of the main channel of the Mississippi river," running west to a certain line; "thence north, to a point due west of the mouth of Rock river; thence due east to the middle of the main channel of the Mississippi river, opposite the mouth of Rock river." These extensive limits were desired, under the then mistaken opinion that settlements could only be formed upon the rivers, and, as was declared, "to make an effectual barrier, for the future, against Indian incursions, by pushing forward and fostering a strong settlement on the little river Platte, to the west, and on the Des Moines to the north."

Here we find not only no mention of the Indian boundary line, but, on the contrary, a desire to have a strong settlement on the Des Moines. This could not be effected by making the Indian boundary our northern line, as there would be no sufficient room for a settlement. To satisfy you on this subject, we respectfully refer you to Hutawa's map of Missouri.

Congress, on 6th March, 1820, passed the act to authorize the people of Missouri Territory to form a constitution and State government within the following limits: "Beginning in the middle of the Mississippi river, on the parallel of thirty-six degrees of north latitude; thence west, along the said parallel of latitude, to the St. François river; thence up, and following the course of that river, in the middle of the main channel thereof, to the parallel of latitude of thirty-six degrees and thirty minutes; thence west, along the same, to the point where the said parallel is intersected by a meridian line passing through the middle of the mouth of 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 correspond with the Indian boundary line; thence east, from the point of intersection last aforesaid, along said parallel of latitude, to the middle of the channel of the main fork of the said river Des Moines; thence down, along the middle of the channel of the said river Des Moines, to the mouth of the same, where it empties into the Mississippi river; thence due east to the middle of the main channel of the river Mississippi," &c.

We have shown that the Indian boundary line, run by Sullivan in 1816, was known to Congress. Had the intention been to make that line our northern boundary, can it be doubted for a moment that Congress would have so declared in express terms? It was a line well known: marked, surveyed, of record. The western line was required to correspond with the Indian boundary line. Why was not the northern line also fixed in the same manner? Again, the northern line is a "parallel of latitude." The Indian boundary line is not a parallel of latitude, but varies greatly from one. The north line passes through "the rapids of the river Des Moines." The Indian boundary line *does not pass through any rapids of any river*. It is below the rapids of the Des Moines river, and above the Des Moines rapids in the Mississippi river. It is absolutely impossible, then, that this can be the "northern boundary of Missouri." Indeed, two several committees of the honorable House of Representatives have so declared, and conclusively shown, as will be seen by reference to their reports, numbered 2, February 4, 1840, and 791, May 26, 1842.

It being thus conclusively shown, that the "Indian boundary line, or line

run by John C. Sullivan in 1816," is not our "northern boundary," by what right does Iowa seek to make it such? We are told that our true boundary is far south of that line—is, in fact, a line "passing through the Des Moines rapids," in the Mississippi river; and, if so, then through the middle of those rapids; but that Iowa, in a spirit of magnanimity, is willing to give us territory to which we are not entitled, and to permit us to hold up to that line! We regret that a similar spirit could not induce her government to submit our claims to judicial decision. But, does the history of this matter sustain this pretence to magnanimity? If the "northern boundary of Missouri" be in fact *south* of the Indian boundary, why is it that Iowa has rejected the condition imposed by Congress, and thus, if her claim be just, deprived herself of a large and desirable territory? If our line is to pass through the middle of the Des Moines rapids, in the Mississippi river, Iowa would *acquire a territory some ten miles in width, running the whole length of our State, to which she, in her constitution, sets up no claim.* Is it not reasonable to believe that a consciousness of the weakness of her claim, and a conviction of the validity of ours, lead to this anxiety to get a decision from Congress as a make-weight in her favor?

But the Indian boundary being proven and admitted not to be our boundary, it becomes important to determine where that boundary is. And, as Iowa is asking to have her boundaries defined, and is not willing to take *ours* as the line which shall separate us, it devolves upon her to show where our boundary lies.

We will, however, undertake to do this for her, confident that we can do so in a manner, and by evidence, which can leave no doubt on the minds of any but the wilfully blind.

We insist that there can be no difficulty in ascertaining the meaning of the language used in the act of Congress of March 6, 1820, or in our constitution formed in the same year, and which, as to our boundaries, adopted the words of that act, if the most common words in the English language have any definite meaning. To ascertain our boundary, we have only to find "the *parallel of latitude passing through the rapids of the river Des Moines.*" The rapids of a river are usually understood to be caused by the *descent of its waters.* In "good old-fashioned English," we would understand the expression, "rapids of the river Des Moines," to be those caused by the descent of the waters of the river Des Moines over some part of its bed. But we are here met by the strange assumption that, forsooth, because we happen to occupy a territory once inhabited by the French, we are not to be permitted to use the English language in the sense in which it is understood by the citizens of other States of the Union! That, though the French language be to us an "unknown tongue," our locality is to compel its adoption; that we are not to be understood to mean what we say, but must resort to French customs and idioms to construe our intention. Hence, although the good citizens of other States may speak in a language to which they are accustomed, and, when they say "the falls of Niagara," or "the falls of the Ohio," be permitted to mean the falls of the river Niagara, or the falls of the river Ohio: when we say "the rapids of the river Des Moines," we shall only be understood, whatever our intention may be, as referring to the rapids of the Mississippi river! But for the fact that it has been seriously advanced by those whose opinions, however erroneous, may have weight, we would deem it an insult to your understanding to undertake to expose this absurd position.

It is admitted that the rapids in the Mississippi, known to the French as "*les rapides de la rivière Des Moines*" are those which have ever been and are still known to Americans as "*the Des Moines rapids*." But it is not pretended that they were ever known to Americans as "*the rapids of the river Des Moines*." Had Congress, or the convention, intended to refer to the Des Moines rapids in the Mississippi, they would assuredly have used the name by which they were known to Americans, and not, by giving a literal translation of the French phrase, have misled and deceived Americans as to the rapids referred to. The Mississippi rapids were well known by the name of the "*Des Moines rapids*"—they were never called the "*rapids of the river Des Moines*." No presumption can by any reasonable inference be drawn, then, from the words of the act of Congress, or the constitution, that any rapids in the Mississippi river were referred to. On the contrary, the act and the constitution both conclusively show that the rapids of the river Des Moines were referred to.

The phrase "*rapids of the river Des Moines*" must refer to the rapids of some "*river*." By reference to the act, it will be seen that the river of which they speak in this sentence is referred to by technical words in the two following sentences: 'They say "*down said river Des Moines*"—"*to the mouth of said river*.'" There can be no doubt then as to the river intended.

But we are not left to the act alone, though its language be as clear and as simple as possible. We have the evidence of the gentleman who framed the act, and of the members of the convention which formed the constitution, together with that of the surveyors familiar with the topography of the country, and who prepared the map to aid the convention in its deliberations.

The Hon. John Scott, delegate from the Missouri Territory, and chairman of the committee which reported the act to authorize the formation of a State government in the Territory of Missouri, says:

"I am entirely sure that the *rapids* spoken of in the bill, and intended by the committee, were the rapids in the Des Moines river itself, and not the rapids in the Mississippi river, called, from their proximity to the mouth of the Des Moines river, the '*Des Moines rapids*.' I am satisfied that the committee and Congress and the convention all meant and intended the rapids in the Des Moines itself, which were then known to exist and spoken of, and not the rapids in the Mississippi, called, by way of distinction from the upper rapids, the '*Des Moines rapids*.'"

General William Millburn, late surveyor-general of this State, says: "At the time of the sitting of the convention, I was employed as a clerk in the United States surveyor's office for Illinois, Missouri, and Arkansas"—"that General William Rector, then surveyor-general, was a member of that body from the county of St. Louis, and that the map" (one made for the convention, and to show the boundaries of the State as understood by the act of Congress,) "was made under my superintendence, by direction of the surveyor-general, and at the request of the convention, or its members in their unofficial capacity. My recollection is distinct relative to the northern boundary of this State, as delineated on the map. It was represented at some short distance north of the Indian boundary line run by Colonel Sullivan in 1816, and as striking the rapids in the river Des Moines; which rapids were understood, without either doubt or contradiction, (so far as I heard,) to be the rapids intended by the act of Congress. The position of the rapids was assumed from the general understanding at the time, and

from the particular information of Colonel Sullivan, who was a member of the convention, and was also the surveyor of the Indian line in 1816."

We have, then, the testimony of the Hon. John Scott, who framed the act of Congress, that the Indian boundary was not our northern boundary; that "the rapids of the river Des Moines" are not the Des Moines rapids of the Mississippi river, but rapids in the Des Moines river itself; that rapids in that river were known to himself, to the committee, and to Congress; that his information was derived from General Rector, the surveyor-general, and others.

We have the testimony of General Millburn, who was then a clerk in the office of the surveyor-general, and who has since been surveyor-general himself, "That a map of the State, with its boundaries, as intended by the act of Congress, was made out under his superintendence, by the direction of General Rector, then a member of the convention, and who was advised by Mr. Scott of the intention of the committee and Congress, in defining our boundaries; that this map was used by the convention, and contained our boundaries as understood by the members; *that among them was Col. Sullivan, who had marked the Indian boundary line, and who gave information concerning the rapids in the Des Moines river; that the line thus marked on the map as our northern boundary was north of the Indian boundary line, and passed through the rapids in the river Des Moines.*

We have the *positive fact* that the "*Des Moines rapids*" are south of the Indian boundary line, and cannot by any possibility have been referred to, if the evidence of General Millburn is to be believed, who testifies that the line of the State was *north of the Indian* line. But these witnesses are not alone. Their testimony is sustained by that of all the living members of the convention, with perhaps one exception. They all unite in saying "that the rapids in the river Des Moines, and not those in the Mississippi, were referred to, and intended to mark our northern boundary." We would respectfully refer for their evidence to House document No. 38, 3d session 27th Congress.

The fact that Colonel Sullivan, who surveyed the Indian boundary line, was a member of the convention, is of itself evidence sufficient to prove that the line claimed by us is the true line. He had run the Indian line, and knew full well that it would not pass through the rapids of any river. He had seen the rapids in the Des Moines, and knew the Des Moines rapids in the Mississippi. As sensible and well-informed a surveyor as he would never have suffered an expression of doubtful character, so easily made certain, to remain. He would have used the name by which they were known to all, had he intended to mean the Des Moines rapids in the Mississippi. To sum up, in brief, our evidence, we have—

1st. The admission of Iowa that the Indian boundary is not our northern boundary.

2d. Her admission that our boundary is not south of that line.

3d. The testimony of all who took part in framing the act of Congress, or the constitution, that our boundary is a parallel of latitude passing through the rapids of the river Des Moines.

4th. The testimony of all whose attention was most particularly called to the subject, that this was the true line, and that it was north of the Indian boundary.

5th. The declaration of Congress, that the Indian boundary is *not* our northern boundary, and its implied admission that our boundary is north of that line.

6th. There is but one line north of the Indian line which corresponds with the evidence and the language of our constitution, and that is the line called Brown's line. No other line can answer the description of our constitution, the language of which is clear and explicit, and gives no ground for reasonable doubt.

It is strange indeed that, to rebut all the evidence which we have adduced to sustain the plain and palpable meaning of the most common words in the English language, a party resisting our claim, and even carrying its resistance to a violation of the rights of our State and its citizens, can adduce nothing but the idle assertion that the French trappers called the rapids in the Mississippi "les rapides de la rivière des Demoines."

Your memorialists, having briefly presented the evidence of their rights, under the full persuasion that Congress, upon a calm and deliberate examination of that evidence, will not hesitate fully to recognise those rights, and prevent the evils which a failure on its part to terminate this dispute must inevitably bring about, respectfully pray that your honorable body will, before Iowa shall be permitted to become a State, by law establish the southern boundary of that territory on the line known as Brown's line, and which was run and marked out by commissioners appointed by the State of Missouri in the year 1837.

And your memorialists will ever pray, &c.

By order of the convention,

R. W. WELLS, *President.*

Attest:

R. WALKER, *Secretary.*

CITY OF JEFFERSON, *January, 1846.*

MISSOURI:

OFFICE OF SECRETARY OF STATE.

I, Falkland H. Martin, secretary of state of the State of Missouri, do certify that the foregoing memorial is a true copy of the original which is now on file in this office.

[L. s.] In testimony whereof, I have hereunto set my hand and affixed the seal of said office. Done at the city of Jefferson this twentieth day of January, in the year of our Lord one thousand eight hundred and forty-six.

FALKLAND H. MARTIN,
Secretary of State.