THE LEGAL ASPECTS OF THE IOWA-MISSOURI BOUNDARY DISPUTE
1839-1851

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INTRODUCTION AND DEFINITION OF TERMS

In this modern age, travelers take little notice of state lines. Except for markers indicating their existence and the advantages of cheaper items in one state over another, state boundaries are often overlooked. But all of these state lines have a history; many of them have been the cause of disputes, some almost violent. Such is the history of the state line between Iowa and Missouri. Nearly a century and a quarter ago, this line was the scene of a great controversy over the location of the northern boundary of Missouri. At one point in the dispute it appeared that hostilities would erupt, but fortunately wiser counsel prevailed. For a period of ten years, the inhabitants in the disputed area were in doubt as to which state would have jurisdiction over them. As Iowa and Missouri could not agree and Congress could not enforce a settlement, it became necessary for the Supreme Court to effect a decision.

I. THE PROBLEM

Statement of the problem. This study was initiated for the purpose of determining and analyzing the legal basis for United States Supreme Court decision establishing the boundary line between Iowa and Missouri west of the Des Moines River.
Justification of the problem. This study may be justified in realizing three goals established at its inception. The first goal was to present the first legal study of the dispute from an historical point of view. While there have been several popular accounts of the boundary dispute between Iowa and Missouri written largely for public consumption, there has been no specific study of the arguments presented by Iowa and Missouri to support their claims. Most previous writings have consisted of a narrative of the entire dispute or an account of some portion of the military activity.

There has never been any previous work which has attempted to make a thoroughly objective study of the dispute. Nearly all previous accounts seem to have an Iowa bias in their presentation. It is a second goal of this study to present, particularly to Iowa readers, an unprejudiced view of the claims of Missouri in the dispute.

A third goal of this study was to search for and present evidence not available at the time of the dispute in an effort to shed further light upon the controversy.

Methods and sources utilized in this study. In order to initiate this study, court and legislative records of the United States Congress, United States Supreme Court, State of Missouri, Territory of Iowa, State of Iowa, Clark County, Missouri, and Van Buren County, Iowa were examined in an effort to obtain all information relative to the boundary dispute.
In addition, the writings of the governors of both states, letters of individuals concerned with the dispute, and newspapers published at the time of the controversy were scanned to obtain further information. Information from the above sources was compiled and analyzed in the light of either justifying or discrediting the contentions of Iowa and Missouri.

**Organization of the study.** The second and third chapters of this study are presented in a chronological manner, tracing the events leading up to the dispute and discussing the attempts by the disputants, Congress, and the Supreme Court to effect a settlement. The fourth chapter is the principal segment of this study. In this chapter, the arguments of both Iowa and Missouri are introduced and analyzed along with other information pertinent to the dispute. The fifth chapter consists of a summary of the study and a presentation of the conclusions drawn from this study.

**II. DEFINITION OF TERMS**

**Great Bend.** The name given to a horseshoe bend in the Des Moines River about sixty miles upstream from the mouth of that river. Sometimes referred to as the Big Bend.

**Des Moines Rapids.** The name given by Americans to the lower rapids in the Mississippi River about three miles upstream from the confluence of the Des Moines and Mississippi Rivers. (See Figure 2.)
Rapids of the River Des Moines. The name given by the French to the lower rapids in the Mississippi River. Also, the point at which the north boundary line of Missouri was to be determined as stated in that state's Constitution. (See Figure 2.)

Brown Line. The Brown Line was the boundary line surveyed by Joseph Brown in 1837. It was on a parallel of latitude passing through rapids located at the Great Bend in the Des Moines River. (See Figure 1.)

Sullivan Line. The boundary line between the United States and the Osage Indian land surveyed by John Sullivan in 1816. It was often referred to as the Osage line and old Indian line.

Northwest corner of Missouri. The point of intersection of a meridian line passing through the mouth of the Kansas River and the north boundary line of Missouri as run by John Sullivan in 1816.

Convention. The convention mentioned in this study was the Missouri Convention of 1820 which wrote a Constitution for that state.

Constitution. The Constitution mentioned in this study was the one written at the Missouri Convention of 1820.
CHAPTER II

BACKGROUND TO THE DISPUTE

The Iowa-Missouri border controversy can be traced back several decades before the actual hostilities took place in late 1839. In fact, it is necessary to go back several years before Missouri entered the Union, when the area under discussion was still part of the Territory of Louisiana. By 1808, the population of the area now known as the State of Missouri was grouped largely along the Mississippi River. Yet, sufficient contacts with Indians inland from the river had fostered a desire to effect some kind of agreement with these natives in an attempt to exclude them from this area and reserve it for future settlement.

I. THE DISPUTED AREA, 1808-1838

History of the Sullivan Line. On the 10th day of November, 1808, a treaty was concluded at Fort Clark on the Missouri River, between Peter Chouteau, agent of the Indian Nation Osage, commissioned by Meriwether Lewis, Governor of the Territory of Louisiana and Superintendent of Indian Affairs, and the chiefs of the Indian Nations, Great and Little Osage. The Indians agreed with the United States Government that a boundary line should be established between the Indian Nations and the United States. The Statutes read 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.\footnote{United States Statutes at Large, Vol. 7, pp. 107-111.}

Both parties further agreed to having two Indians accompany the surveyors in order to designate the bounds of the cession to be made. The treaty was ratified by the United States on April 28, 1810. Due to the intervening war with Great Britain in 1812, however, the survey was not accomplished and it was necessary to renew the treaty in 1815.

It was not until eight years after the original signing of the treaty that any attempt was made to establish a boundary line. In the year 1816, John C. Sullivan was appointed surveyor by General William Rector, the Surveyor General of Illinois and Missouri. He was instructed to run the Osage boundary north of the Missouri River. Sullivan, together with Pierre Chouteau, one of the treaty signers of 1808, met the Osage representatives and proceeded to run the boundary line. The line was started on the Missouri River opposite the mouth of the Kansas River and was then run one hundred miles directly north, at which point a corner was established. From this corner, the line
was extended eastward to the Des Moines River. The line was marked by wooden stakes and blazes on trees of the forests. Sullivan completed this line September 30, 1816. Due to failure to make proper correction of the compass needle, however, the line bent to the north making the east end about four miles north of the northwest corner.

**Missouri statehood.** By an act of Congress of March 6, 1820, the people of the Territory of Missouri were instructed to form a Constitution and a state government. This enabling act specified that the boundaries on the north and west, north of the Missouri River, should begin on:

- 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, 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 the point of intersection last aforesaid, along the said parallel of latitude to the middle of the channel of the main fork 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 Mississippi River.

Missouri was admitted as a state August 10, 1821 from a part of the Territory of Missouri. The boundaries of the new state, as given in her Constitution, were identical to those suggested in the enabling act of 1820.

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Related acts of Congress. On August 4, 1824, a treaty was concluded at Washington between William Clark, Superinten-
dent of Indian Affairs, and the chiefs of the Sac and Fox Nations. By the terms of this treaty, the said Indians ceded to the United States all claims which they had within the bound-
daries described in part as:

... a line running from the Missouri at the entrance of the Kansas River north one hundred miles to the northwest corner of Missouri and from thence east to the Mississippi; reserving for the use of the half breeds belonging to the Sac and Fox nations, the tract between the Des Moines and Mississippi.¹

The boundaries of the Michigan Territory were, by an act of Congress of June 23, 1834, extended westward to the Missouri River and southwest to the State of Missouri. The south boundary 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."² Two years later, the Wisconsin Territory was created from the western part of the Michigan Territory. Its south line was defined as identical to that of the Michigan Territory.

Another act of Congress passed on the 7th of June, 1836 provided for the annexation of additional territory to the

¹United States Statutes at Large, Vol. 7, pp. 229-230.
State of Missouri. The act read in part:

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 the State should extend to the Missouri River.1

The State of Missouri assented to this act of Congress on December 16, 1836, and the territory was annexed by proclamation of the President, March 28, 1837.

Establishing the Brown Line. Following the annexation of the area, the State of Missouri took steps to locate the north boundary of both the original state and the newly acquired territory. By a legislative act of December 21, 1836, the General Assembly of Missouri authorized the governor to 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 that state and the act of Congress on the sixth day of March, 1820, and the act of Congress approved the seventh of June, 1836.2

These 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."3

The governor was also "authorized to open communications with

1United States Statutes at Large, Vol. 5, p. 34.
2Landers, op. cit., p. 645.
3Ibid.
the President of the United States, and with the governor of the Territory of Wisconsin requesting them to appoint like commissioners to oversee the survey."¹ When no reply was received to this communication within the prescribed six months as set by Governor Boggs, the Missouri commissioners proceeded to run the survey.

Joseph C. Brown was appointed principal commissioner, with Daniel M. Boone and Stephen Cooper as assistants. They commenced work in July, 1837. The first task, as directed by their instructions, was to determine the eastern termination in the River Des Moines. Brown, and his companions, journeyed down the river judging each rapids in the light of the description given in the Missouri Constitution. About sixty-three miles upstream from the mouth, Brown encountered rapids which he assumed to be formidable enough to be considered as those mentioned in the Missouri Constitution. From this point, the latitude of which was forty degrees forty-four minutes and six seconds north, the boundary line was surveyed west to the Missouri River, a distance of about 203 miles. The Brown Line, as this survey has since come to be known, was north of the Sullivan Line, nine miles at the eastern end and about thirteen miles at the western end. The area between the two lines was about 2,616 square miles and was estimated to contain 1500

¹Ibid.
inhabitants.  The commission's work was completed October 19, 1837 and a report, with a map of the survey was filed with the Secretary of State of Missouri.  

First Congressional attempt at settlement. Alarmed by this extension of the Missouri boundary, a convention of delegates representing the inhabitants of the Territory of Wisconsin living in the Iowa district, assembled at Burlington, Iowa on November 6, 1837. The convention sent a memorial to Congress asking the national government to survey the boundary "according to the spirit and intention of the act defining the boundary lines of the State of Missouri," but no action was forthcoming. However, on June 18, 1838, six days following the creation of the Territory of Iowa, Congress authorized the President of the United States to cause the southern boundary line of the Territory of Iowa to be ascertained and marked. A commissioner was to be appointed for the United States and the State of Missouri and the Territory of Iowa were each invited to appoint a commissioner. 

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1 Albert Miller Lea, "Report of Commissioner," Iowa Historical Record, II (January, 1886), 200.


4 United States Statutes at Large, Vol. 5, pp. 248-249.
Albert Miller Lea was appointed as the United States Commissioner. Upon receiving his instructions August 14, 1838, he proceeded to St. Louis to await the appointment of the commissioners by Iowa and Missouri. On September 1, 1838, Iowa Territorial Governor Robert Lucas appointed Dr. James Davis as Commissioner for Iowa. Governor Boggs of Missouri informed Lea that he had no authority to appoint a commissioner and requested that the survey be postponed until the General Assembly would meet. Replying to Governor Boggs, Lea suggested, "I would confine my operations to the ascertainment of facts necessary to be known before the line could be properly established." Governor Boggs assented to this arrangement and the commission proceeded with its task.

In the report submitted to James Whitcomb, the commissioner of the General Land Office on January 19, 1839, Lea points out that there were four lines "any one of which may be taken as that intended by the act of March 6, 1820." These lines are shown on Figure 1 on the following page. The lines pointed out by Lea were:

1. (Line CD) The old Indian boundary, or Sullivan's line, extended west to the Missouri River.
2. (Line CE) The parallel of latitude passing through the old northwest corner of the Indian boundary.
3. (Line FG) The parallel of latitude passing through the Des Moines Rapids in the Mississippi River.
4. (Line AB) The parallel of latitude passing through the rapids in the Des Moines River at the Great Bend.

1Lea, Report of Commissioner, op. cit., p. 194.
2Ibid., p. 200.
3Ibid., pp. 200-201.
FIGURE 1

MAP SHOWING BOUNDARY LINES AND AREA IN DISPUTE*

(Line CD) The old Indian boundary, or Sullivan's line, extended west to the Missouri River.

(Line CE) The parallel of latitude passing through the old northwest corner of the Indian boundary.

(Line FG) The parallel of latitude passing through the Des Moines Rapids in the Mississippi River.

(Line AB) The parallel of latitude passing through the rapids in the Des Moines River at the Great Bend.

*The above map is freehand. The information is taken from Lea, Report of Commissioner, op. cit., pp. 200-201.
II. THE DISPUTED AREA, 1838-1839

Missouri throws down the gauntlet. The conflict was brought to a head by the actions of Missouri. On December 15, 1838, the Missouri General Assembly passed an act organizing Clark County. By this act, Clark County's north line was described as the true boundary of the State of Missouri. In order that there might be no doubt as to what was meant by the true boundary, the legislature passed a second act on February 16, 1839 entitled, "An Act Defining the Northern Boundary Line of the State" in which it was stated:

The line as run and marked out by the commissioners appointed by this State, from the rapids of the River Des Moines to the Missouri River in the year 1837, be and the same is hereby declared the northern line of this State.¹

By her actions, Missouri officially claimed the Brown Line as the northern boundary of the state. From that time to the final settlement in 1851 by the United States Supreme Court, the boundary controversy was a constant irritation to the inhabitants of the Territory of Iowa, State of Missouri, and the Congress of the United States.

It soon became inevitable that the authorities from Missouri and the Territory of Iowa would clash over the jurisdiction of the region between the Brown and the Sullivan Lines. The officials of Clark County, Missouri began to assess taxes

¹U.S. Senate Document No. 4, 26th Congress, 1st Session, p. 4.
in the region south of the Brown Line, which had hitherto been considered part of Van Buren County, Iowa. On July 8, 1839, the officials of Van Buren County appealed to Governor Lucas of Iowa in a letter which said in part:

Missouri authorities have against the will and wishes of the people assessed their property and endeavored to ascertain their views in relation to slavery, and further ordered that they should not pay the collector of this county whose duty requires that it should soon be accomplished.¹

They recalled the firmness exercised by Governor Lucas while in Ohio in an earlier boundary dispute with the Territory of Michigan, and felt that this experience gave them reason to expect prompt attention to this problem.


²Parish, op. cit., pp. 239-240.
there is but one path of duty pointed out to us and that is, to maintain the jurisdiction of the United States over the full extent of their territory . . . until the boundary line be definitely settled by Congress, or altered by the authority of the United States.\footnote{Shambaugh, \textit{op. cit.}, p. 221.}

The Lucas proclamation aroused the indignation of Governor Lilburn W. Boggs of Missouri who issued a counter proclamation on August 23, 1839. He ordered the civil and military authorities to enforce the laws of Missouri in the region in dispute. In the event of resistance by three or more persons, the officials were directed to call to their aid either the power of the county or a sufficient number of militia or other persons in arms to disperse said assembly, arrest offenders, and maintain the authority of the laws.\footnote{Leopard, \textit{op. cit.}, p. 424.}

In answer to Governor Boggs, Governor Lucas issued a second proclamation in which he stated:

We shall view all acts that may be done by the authorities of Missouri, or by individuals under pretense of authority derived from that State as having been done without any authority, and in violation of the laws of the Territory and those of the United States, and subject to be prosecuted accordingly.\footnote{Shambaugh, \textit{op. cit.}, pp. 233-234.}

He further suggested that should the United States Marshal require a posse comitatus of armed men to aid him in the service for execution of civil process, he had at his command the whole armed force of the territory.
On October 3, 1839, Governor Lucas wrote to Secretary of State John Forsyth enclosing documents to show the progress of the controversy between Missouri and the Territory of Iowa. He was of the opinion that nothing had happened to call for the interposition of the President, but he invited suggestions and advice.¹

**Moves toward peace and war.** By this time, events began to move much more rapidly. On October 17, 1839, Henry Heffleman, the sheriff of Van Buren County, Iowa wrote to Governor Lucas that three days before, the sheriff of Clark County, Missouri had appeared in Van Buren County to collect taxes. Failing to collect from several individuals, the Missouri sheriff had threatened to sell their property for payment of the tax. Sheriff Heffleman reported that a force of several hundred men was gathering at Waterloo, Missouri for the purpose of taking property or tax from the inhabitants of Van Buren County.²

An attempt to arbitrate the difficulty was requested by the citizens of Clark County, Missouri. As reported by Sheriff Heffleman to Governor Lucas on October 28, 1839, a delegation of seven citizens from Clark County met a similar group from Van Buren County, Iowa. At this meeting, the Missourians suggested a mutual suspension of hostilities and the

¹Ibid., pp. 129-130.
²Ibid., pp. 130-131.
exercise of concurrent jurisdiction in the disputed area until Congress should render a final decision in regard to the boundary. In addition, the taxes in the disputed area would be collected by the sheriff of Van Buren County but one half of the amount collected would be deposited with the Clark County court. Each county was to give bond guaranteeing that all such deposits would be paid to the party in whose favor Congress should decide the boundary question. The Van Buren County delegation was in favor of suspending the collection of taxes, but they would not accede to a concurrent jurisdiction over the disputed territory. In reply, the Clark County delegation insisted they could not yield jurisdiction over the territory, a jurisdiction which they claimed to have exercised prior to the organization of the Territory of Iowa.1

On October 26, 1839, Governor Lucas addressed a letter to Francis Gehon, the United States Marshal, expressing the opinion that his presence on the border was necessary.2 On the same day, Governor Lucas wrote to Sheriff Heffleman in which he referred to the letter to Marshal Gehon and stated that Gehon would take charge when he arrived.3 Three days later, the governor ordered V. P. Van Antwerp, the Adjutant General of the Iowa Militia, to go to Van Buren County to

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1 Ibid., pp. 134-135.
3 Ibid., p. 5.
advise the officials there.\textsuperscript{1}

A meeting of the citizens of Van Buren County was held at Keosauqua, Iowa on October 30, 1839 approving the conduct of the delegation at the attempted arbitration on October 24th. A similar meeting held at Waterloo, Missouri in Clark County on November 1 upheld the action of their delegation and urged county authorities to proceed with the collection of taxes in the disputed territory.\textsuperscript{2} A meeting was held in Lewis County, Missouri in which the action of the Clark County delegation was applauded and resolutions passed to support Clark County.\textsuperscript{3}

On November 5, 1839, the Clark County court ordered the sheriff of Clark County to:

Proceed forthwith and collect the State and County tax from the inhabitants on the disputed territory of Clark County. In case he should be resisted in the duties of his office, he is required to call on the civil authorities of Clark County for further aid.\textsuperscript{4}

Sheriff Uriah S. Gregory of Clark County, Missouri entered the disputed territory in the discharge of his duties on November 20, 1839. Sheriff Heffleman of Van Buren County, Iowa was informed of his presence, pursued him and arrested him on the

\textsuperscript{1} Shambaugh, op. cit., p. 136.

\textsuperscript{2} U. S. Senate Document No. 35, 26th Congress, 1st Session, p. 8.

\textsuperscript{3} News item in The Missouri Whig, November 9, 1839.

\textsuperscript{4} Clark County Court Record "A", December Term 1839, p. 109.
same day.\textsuperscript{1} Sheriff Gregory was held for trial at the next term of district court and was removed from Van Buren County to a safer place at Bloomington, Iowa (now Muscatine) farther from the boundary line.\textsuperscript{2}

The Honey War. Just about the same time, another incident occurred which intensified the feeling and produced the name by which these mock hostilities have since been called by succeeding generations. A Missourian cut three bee trees on the disputed tract, and the owner, an Iowan, sought to have him arrested and tried before a magistrate holding an Iowa commission. The arrest was not effected, but a judgment for about $1.50 was rendered against the Missourian and the constable, with a strong posse, was on the watch to collect it.\textsuperscript{3} Following this episode, a satirist, John I. Campbell, saw the controversy in the true light and composed a humorous poem which has become well-known in the history of both Iowa and Missouri.

Meanwhile, upon hearing of the humiliation shown an official of Clark County in the discharge of his duties, the Clark County court, on November 23, 1839, after "mature" consideration, ordered that:

\begin{flushleft}
\textsuperscript{1}U.S. Senate Document No. 35, 26th Congress, 1st Session, p. 14.
\textsuperscript{2}Parish, op. cit., p. 246.
\textsuperscript{3}History of Lewis, Clark Knox and Scotland Counties Missouri (St. Louis: The Godspeed Publishing Company, 1887), p. 367.
\end{flushleft}
General O. R. Allen of the 14th Division and 2nd Brigade Missouri militia be and is hereby required to muster the forces at his command to aid in sustaining the civil authority of this county in exercising exclusive and unmolested jurisdiction within the boundaries of this county and especially on the disputed ground above named contained within the same.

It is further ordered that D. Willock Major General Commanding 14th Division Missouri militia be and he is likewise required to muster the forces at his command, also to aid the authorities of this county in maintaining their jurisdiction over said disputed ground, and demanding reparations from the Territory of Iowa for the misconduct of its officers and citizens if sanctioned by its government.

Reports of Missouri's preparation for military operations had been reaching Governor Lucas of Iowa for some time. As early as November 2, 1839, citizens Abner Kneeland and Isaac N. Lewis had reported three divisions of Missouri troops had been ordered out to aid, if necessary, in collecting taxes. A similar report was brought back by a citizen named Joseph Davidson. On December 2, William Wilson, who was engaged in the transport business, wrote that his wagons were stopped and searched by a band of armed Missourians. And on December 4 the United States Deputy Marshall G. A. Hendry reported to Governor Lucas that armed Missourians were operating in the southern part of Van Buren County, Iowa. Similar reports were forwarded to Governor Lucas during the week.

1Clark County Court Record "A," December Term 1839, p. 110.
2Shambaugh, op. cit., pp. 139-140.
3U. S. Senate Document No. 35, 26th Congress, 1st Session, p. 15.
4Ibid., p. 16.
In the meantime, preparations were taking shape on the Iowa side of the border. On December 6, Charles Weston, the United States Attorney for the Territory of Iowa, gave his legal opinion that it was the duty of the United States Marshal to arrest persons violating the law of the Territory of Iowa and that it was quite proper to call upon the governor for sufficient militia to help execute the laws.1

Fortified by this opinion, Governor Lucas called upon the commanders of the first, second, and third divisions of the Iowa militia to furnish as quickly as possible such forces as the United States Marshal might require to enforce the laws of the territory.2 The marshal immediately called upon the militia for aid. After experiencing difficulty in securing volunteers, the militia began to march toward the border.3

In the meantime, cooler heads were prevailing in Clark County, Missouri. On December 4, 1839, the Clark County court appointed a delegation of five: (1) Robert P. Mitchell, (2) Abe Wayland, (3) William McDaniel, (4) Andrew Broaddus, and (5) Mays Johnson to:

...procure if possible an amicable adjustment of the difficulties now existing—and that all hostile operations may cease on both sides and that the mutual friendly relations heretofore existing be reestablished.4

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1Ibid., pp. 17-18.  
2Ibid., p. 19.  
3Parish, op. cit., pp. 248-249.  
4Clark County Court Record "A," December Term 1839, p. 112.
On December 9, 1839, the delegates from Clark County met with the two houses of the Iowa Territorial Legislature. From this meeting, resolutions were drawn up calling upon Governors Lucas and Boggs to suspend all hostilities for a time with the view of having Congress settle the boundary dispute.¹

On December 12, the Clark County court informed the commander of the Missouri militia that "we do not desire longer the aid of the militia of this state in the enforcement of our laws."² The Iowa militia, finding their opponent disbanded, and with the prospect of a cold campaign, quickly broke up and returned to their homes.

Though open fighting was averted, the question of the location of the boundary remained as far as ever from settlement. At the close of 1839, it was hoped that Congress would settle the dispute and this avenue was approached many times before failure was recognized. The attempts at settlement and the final solution are the subjects of subsequent chapters of this study.

¹Journal of the Iowa House of Representatives, 1839-1840, pp. 102-103.
²Clark County Court Record "A," December Term 1839, p. 114.
CHAPTER III

EFFORTS TO EFFECT A SETTLEMENT, 1840-1847

In the early part of the dispute, both Iowa and Missouri looked to Congress to settle the issue. As neither side would concede or compromise their position, it became necessary to look to a stronger and uninterested party to effect a settlement. Many felt that the Congress of the United States satisfied these requirements. But was Congress uninterested or strong enough to enforce a decision? Time proved that the answer to these questions was an emphatic no! Thus, it became necessary to look for another body whose judgment of the dispute would be respected.

I. THE DISPUTE BEFORE CONGRESS

Problems of a Congressional decision. An examination of the controversy revealed that Congress was not an altogether uninterested party to the dispute. If the land in dispute was awarded to Missouri, it would be a loss to Congress, because it would mean loss of jurisdiction by Congress. In this dispute, Congressional interests lay on the side of Iowa.

Missouri became aware that the possibility of a Congressional decision gave the advantage to Iowa. Congress favored Iowa's claims for several reasons, including the above. For one thing, Missouri contained the largest land area of any state then in the Union. Further, the act of Congress of June 7,
1836 had enlarged Missouri by over 3000 square miles. And now, during this dispute, Missouri was attempting to secure control over an additional 2600 square miles. This placed Missouri in the light of being quite grasping and ungrateful for previous Congressional favor. Senator Lewis Linn of Missouri noted this problem in a letter to James L. Minor of Missouri when he wrote:

The magnitude of our state and the annexation of the Platte Country which is considered by many an act of great generosity on the part of Congress, indisposes many members from examining the question critically.¹

Also, Iowa very slyly helped create this strong feeling against Missouri in debate before Congress in order to strengthen her own position. On July 20, 1842, Iowa's delegate A. C. Dodge heatedly announced:

It is Missouri, gigantic, avaricious, grasping Missouri, whose surface . . . is estimated . . . at 66,960 square miles. . . . This makes her considerably larger than the six New England States together . . . She is then the last state which . . . should claim more territory; and surely the last to which any portion of the people of Iowa should surrender.²

Still, Missouri went along with the attempt to have Congress settle the matter. In truth, she was almost forced to take this course of action. To have refused would have done much harm to her case in the eyes of the remainder of the United States.

¹Letter from Lewis Linn to James L. Minor, February 29, 1840. A photostat of the original is in the hands of the Missouri State Historical Society, Columbia, Missouri.
²News item in the Iowa Territorial Gazette, September 24, 1842.
States. But Iowa did not hold all of the advantage. A recognized protection called state's rights was used by Missouri. She knew full well that if Congress should decide against her claim, she need not accept the decision. Congress could not enforce the decision.

The attempts by Congress. The first attempt by Congress, as discussed in the preceding chapter, was in 1838 when a commissioner was appointed. The appointee, Albert Lea, was to work with commissioners appointed by the two disputants to work out a settlement. This plan did not work. Another Iowa appeal was presented to the United States Senate on January 9, 1840 requesting a "speedy settlement of a question involving so deep an interest." But no action was taken in the Senate where Missouri had two very able representatives, Senator Linn and Senator Benton, to protect her interests. A bill was reported in the House of Representatives which would have established the Sullivan Line as the boundary, but it failed to gain the needed support.

During the 1841-1842 session of Congress, the possibility of an adjustment favoring Iowa seemed almost certain. Both the delegates for Missouri and Iowa put forth their best arguments in an effort to sway Congress to support their claims.

1Journal of the Iowa House of Representatives, 1839-1840, p. 80.

2Shambaugh, op. cit., p. 140.
However, all the activity was in the House of Representatives and this fact prevented Iowa from gaining passage of a favorable bill. In the House of Representatives, all available evidence was called for and carefully examined. Finally on May 26, 1842, after much deliberation, the House Committee on Territories, under the Chairmanship of Garrett Davis of Kentucky, reported a bill to establish the Sullivan Line as the boundary between Missouri and the Territory of Iowa.¹ The report, accompanying the bill, was a most favorable exposition of the Iowa viewpoint.

On July 20, 1842, the Davis bill was taken up by the House of Representatives. Representative Edwards of Missouri presented the arguments for that state, although maintaining that the controversy could only be decided by the Supreme Court. In behalf of Missouri, Mr. Edwards presented written testimony of living members of the Missouri Constitutional Convention attesting that the rapids in question were in the Des Moines River. In answer to Missouri's arguments, A. C. Dodge, speaking for Iowa, delivered a long oration denouncing these arguments. He spoke so convincingly that, together with the evidence presented by the Committee on Territories, the Davis bill passed the House. But the bill was killed by the lack of a sponsor in the Senate.²

²Louis Pelzer, Augustus Caesar Dodge (Iowa City, Iowa: The State Historical Society of Iowa, 1907), pp. 85-89.
At the next session of Congress, on January 21, 1845, the House Committee on Territories submitted their second report on the Iowa-Missouri boundary.¹ The report was almost identical with the Davis report submitted by the same committee the year before. But there was no record of the question being brought up in Congress during this session.

During the 1843-1844 session of Congress, a bill providing for the settlement of the disputed boundary was finally passed and became law on June 17, 1844. This bill provided that a commissioner be appointed by the governor of the Territory of Iowa, a second commissioner be appointed by the governor of the State of Missouri and a third commissioner be selected from a neutral state by the two governors. These three commissioners were then to appoint surveyors to ascertain and survey the northern boundary of the State of Missouri. The great drawback to the bill was that the act was not to become effective unless it was approved by Missouri. In addition to the approval, Missouri had to abide by the award of any two of the commissioners as final.²

On November 13, 1844, in his first biennial message,³ Governor Meredith M. Marmaduke of Missouri recommended that

the legislature pass such an act agreeing to the establishment of the line in the manner as prescribed by Congress. In answer to the governor's request, the Missouri legislature approved such a bill, but their efforts were wasted when John C. Edwards, the new governor vetoed the bill on January 13, 1845. Governor Edwards was the same person who, in the House of Representatives, had repeatedly opposed any attempt by Congress to settle the dispute. Edwards expressed fear that a third commissioner could not be trusted to favor Missouri's claims. He held that as Iowa was seeking admission into the Union, perhaps Congress would be forced to make a decision favorable to Missouri. If any decision went against Missouri, recourse could always be had in the courts.¹

Governor Edward's action clearly pointed out the futility of hoping that Congress could settle the dispute. Those who had optimistically looked to Congress to settle the problem, realized that the solution was not to be found there. Only one objective arbitral body remained. Thus, Missouri's viewpoint that only the Supreme Court could render the decision was accepted.

II. ATTEMPTS TO PLACE THE PROBLEM BEFORE THE SUPREME COURT

As early as November 10, 1841, Governor Thomas Reynolds of Missouri had written to Governor John Chambers of the Iowa²

¹Ibid., pp. 131-137.
²Shambaugh, op. cit., pp. 258-259.
Territory proposing that both Iowa and Missouri agree on a case and submit it to the Supreme Court of the United States for adjudication. Governor Chambers replied that since the Organic Act specifically reserved to Congress the power to alter the territorial boundaries, the governor could make no agreement on the matter. He also doubted that the Supreme Court could constitutionally take jurisdiction of a controversy between a state and territory.¹

Difficulties between Adair County, Missouri and Davis County, Iowa over jurisdiction in the disputed area in March, 1845 focused attention again to the need for a final settlement. In a special message to the Missouri General Assembly on March 21, 1845, Governor Edwards suggested:

'It may be well for the two states to make up and submit an agreed case to the courts, if in this way the matter can be settled. It is in the interests of both . . . such is the wish of Missouri and no doubt of Iowa too.'²

Encouraged by the views of Governor Edwards, Governor Chambers of Iowa wrote the former a letter suggesting that the Missouri authorities apply to Congress for permission to litigate the boundary either with the Territorial Government or with United States Government. In his fourth annual message on May 5, 1845, Governor Chambers called upon the Iowa legislature to take the lead in applying to Congress to make provi-

¹Ibid., p. 260.
²Leopard, op. cit., p. 171.
sions for an immediate legal adjustment of the controversy.1

On March 25, 1845, the Missouri Legislature had authorized the governor of that state to agree with the governor of Iowa on a case to secure the Supreme Court to make a decision settling the disputed boundary.2 In the same year, Governor James Clark of Iowa, in his first annual message, recommended that the Iowa legislature follow the example of Missouri and request that Congress pass a law authorizing the territory to be a party in an agreed case submitted to the Supreme Court.3 The legislature submitted such a request on January 17, 1846.4

In response to this request, Congress, in an act of August 4, 1846, defining the boundaries of Iowa, inserted a section authorizing the boundary dispute to be referred to the Supreme Court.5 The problem of statehood frequently interfered with the settlement of the problem. The final ratification of the Constitution of 1846 again delayed the final settlement until the latter part of 1846. In his second annual message December 2, 1846, Governor Clarke recommended that all legislative provisions necessary to the commencement and termina-

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1 Shambaugh, op. cit., p. 232.
2 News item in the Bloomington Herald, April 5, 1845.
3 Shambaugh, op. cit., pp. 322-323.
5 United States Statutes at Large, Vol. 9, pp. 52-53.
tion of such a suit be made.1

Acting on the governor's recommendation, the first General Assembly of Iowa, January 16, 1847, passed an act authorizing the governor to agree with the State of Missouri for the commencement of a suit to be taken before the United States Supreme Court in order to secure the settlement. He was further instructed to employ counsel and otherwise safeguard the rights of Iowa. On the second Monday in June, 1847, the counsel for Iowa and Missouri met and agreed to institute an amicable suit.2

On December 10, 1847, Missouri filed her original bill in the Supreme Court charging that Iowa had deprived her of her rightful boundary and praying that the territory claimed by Missouri be restored to her. Iowa denied Missouri's right to the territory in question and filed a cross-bill charging Missouri with attempting to encroach on Iowa soil. The arguments for Iowa were presented by Charles Mason who was assisted by Thomas Ewing. The Missouri case was upheld by James S. Green and H. R. Gamble.3

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1Shambaugh, op. cit., p. 346.
2Ibid., p. 398.
CHAPTER IV

AN ANALYSIS OF THE VIEWPOINTS OF IOWA AND MISSOURI
IN THE LEGAL SETTLEMENT OF THE DISPUTE

The dispute over the true location of the northern boundary of the State of Missouri centered upon different interpretations given to that portion of the Missouri Constitution which established the state boundaries. Within the paragraph outlining the boundaries was the phrase "the rapids of the River Des Moines." These rapids were quite important as they determined the starting point for the north boundary of Missouri. Just where these rapids were located meant the difference between whether Missouri or Iowa had jurisdiction over some 2600 square miles. Iowa maintained that the rapids intended by the Constitution were the lower rapids in the Mississippi River. Missouri contended that these rapids were in the Des Moines River, and she selected the rapids at the Great Bend as satisfying the descriptive call in the Constitution. The following pages are presented as an analysis of the arguments of both disputants in an effort to clarify the vague phrase "rapids of the River Des Moines."

I. EVIDENCE PRESENTED BY IOWA IN SUPPORT OF HER CLAIMS

Iowa contended that the rapids mentioned in the Missouri Constitution were the lower rapids in the Mississippi River, commonly called the Des Moines Rapids. The arguments were based
upon strong points; so strong, in fact, that they were accepted by the United States Congress. Iowa expected to prove that there were no significant rapids in the Des Moines River; and, at the same time, to prove that the lower rapids of the Mississippi River had, at one time, been called rapids of the River Des Moines. Iowa maintained that the phrase "rapids of the River Des Moines" was a name and not a description; and the name, which for more than half a century, had been conferred by French voyagers and settlers upon the lower rapids in the Mississippi River. Figure 2 on the following page indicates the position of the two disputed rapids.

**Documentary evidence.** The first point brought to light was an extract from an official French permit issued May 30, 1799 by Zenor Trudeau, acting Lieutenant Governor of Upper Louisiana.1 This document permitted a Mr. Louis Honore (Tesson) to establish himself at the head of the rapids of the River Des Moines. Under the terms of this grant, Honore did make an actual settlement. His location was on the banks of the Mississippi River and at the head of the Des Moines Rapids, some eighteen or twenty miles above the mouth of the Des Moines River. Information of Honore's location at this place is available from two sources. First, historians have credited Louis Honore, more familiarly known as Louis Tesson, with planting

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the first apple orchard in Iowa on this grant. Also, at the time of the dispute, Honore's heirs, by the name of Reddick, were participants in a lawsuit to gain possession of this land under the terms of this old grant. The area in dispute was at the head of the Des Moines Rapids in the Mississippi River.

In the paragraph above, it was pointed out that the
French had referred to the lower rapids as the rapids of the River Des Moines. Iowa maintained that the lower rapids in the Mississippi River had been referred to in this manner many times before in public documents and acts of Congress. Substantiation of this statement was not possible, although the fact that Missouri did not challenge it might indicate its validity. However, the lower rapids of the Mississippi River were indicated on many old maps by the term in question.

**Personal testimony.** Iowa presented the testimony of an early French trader who declared that the lower rapids in the Mississippi River were called rapids of the River Des Moines by all the early inhabitants. Pierre Chouteau, Jr. stated that the Des Moines Rapids were always known by the French as "les rapides de la riviere Des Moines." A simple translation of the French "les rapides de la riviere Des Moines" reveals the rapids of the River Des Moines, the exact phrase used in the Missouri Constitution. This could hardly be called a coincidence.

In support of her case, Iowa secured the testimony of several prominent members of the Missouri Convention. These men declared that the Des Moines Rapids were the rapids meant by the Convention. They had heard of the rapids of the River Des Moines and knew them to be located in the Mississippi River. They stated that they believed the other members were aware of

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1. News item in the *Iowa Territorial Gazette*, September 24, 1842.
this fact too. These four men were Henry Dodge, former governor of the Wisconsin Territory, Representative from Wisconsin and father of the Iowa delegate; Nathan Boone, Army officer and son of Daniel Boone; Benjamin Emmons, Judge of a St. Louis court; and Pierre Chouteau, Jr., Indian trader and explorer.¹ All were firm in their belief that the rapids of the River Des Moines were in the Mississippi River.

William Clark, Superintendent of Indian Affairs, who was present at the convention, although not a member, also supported Iowa's stand. In a letter² to C. A. Harris, Commissioner of Indian Affairs, Clark wrote that he had always been of the opinion that the rapids of the Mississippi River, above the mouth of the River Des Moines, were those contemplated by the convention. He further stated that he presumed the reason for using the rapids in the Mississippi River was the belief that the line run by Sullivan, east from the northwest corner, would strike some point in these rapids.

II. EVIDENCE PRESENTED BY MISSOURI IN SUPPORT OF HER CLAIMS

The principal argument used by Missouri in defense of her claim to the Brown Line was the testimony from the surviving members of the convention of 1820. Missouri maintained

¹ Ibid.

that these men were the only individuals who could explain what was meant by the phrase "rapids of the River Des Moines." Any attempt by other individuals to explain the meaning of this phrase would be only speculation, because only these men were there when the boundaries were written into the Constitution. Missouri felt that their testimony should be taken as fact, and, as it supported Missouri's position, she thought her claim should be upheld. Still, Missouri knew that more evidence would have to be produced, so she attempted to strengthen her position by analyzing Iowa's claims and the Missouri Constitution.

**Personal testimony.** At the time of the boundary dispute in 1840, there were twenty living members from the convention of 1820. In order to ascertain the views of these men, Beverly Allen, an interested citizen from Jefferson City, sent a letter to each member requesting the views entertained and expressed by the members of the convention and the individual concerned as to what rapids were meant by the rapids of the River Des Moines and what line it was that was to correspond with the Indian boundary line."¹ Allen's letter was sent out December 21, 1840. At the time the evidence was presented before Congress in 1842, ten replies had been received. Two more replies were sent to the State of Missouri a short time later.²

¹Ibid., pp. 1-2.
²Portions of these letters concerning the rapids of the River Des Moines are presented in the Appendix.
These letters indicate either that most of the members knew very little about the boundaries, or that time had dimmed their memory considerably. Most of the letters were quite vague as to details, although on the principal questions, they did support Missouri. One important detail was mentioned several times. A map outlining Missouri's boundaries was constructed at the convention. From the evidence available in these letters, the boundaries were a short distance north of the Indian line, some fifty or sixty miles from the mouth of the Des Moines River. This map would have been very important to Missouri's case, but it could not be found. The possible existence of such a map came to the attention of United States Commissioner Albert Lea in 1838. He wrote to General William Milburn concerning the map. Replying to Lea's letter, Milburn wrote:

The map was constructed in the Surveyor's Office, under my superintendence by direction of the Surveyor General . . . I am uninformed as to what became of that map and do not know that it was ever copied.

While confusion as to the exact location of the north boundary seems to have existed in the minds of some members at the convention, three individuals seem to have been quite clear on this subject. Two of these individuals, William Milburn and John Scott, were very prominent men. Albert Lea remarked of these two in his report to Congress:

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The character of these gentlemen is too well known to need any comment; and they are so positive and so circumstantial in their statements of what was the impression of themselves and others on the point in question, that it is impossible to doubt their accuracy.¹

The third person, John D. Cook, was a member of the Committee on Boundaries at the convention, and should have been better informed about the boundaries than most of the other members. All three individuals gave conclusive evidence in support of Missouri and their testimony certainly cannot be discounted.

John Cook testified that his committee had free access to the Surveyor General's office from which they acquired extensive information. This information left no doubt in the mind of Cook that the rapids existed in the Des Moines River.² Nearly the same information was reported by John Scott. Scott was not only a member of the convention, but he was Missouri's delegate to Congress at the time of the convention. He introduced and spoke in behalf of Missouri's bill for statehood before Congress. Scott insisted that it was brought out in the convention that rapids existed in the Des Moines River, some sixty miles from the mouth.³

¹Lea, Report of Commissioner, op. cit., p. 205.
³Ibid., pp. 8-9.
The most favorable testimony was produced by General William Milburn of the Surveyor General's office in letters to Albert Lea and Beverly Allen. To Allen, Milburn wrote that the "rapids were understood to be a short distance north of the Indian boundary run by Col. Sullivan in 1816."1 He further stated, "I am . . . satisfied and convinced that I can't possibly be mistaken."2 In the letter to Lea, Milburn stated:

My recollection is distinct, relative to the north boundary of the State, as outlined on the map. It was represented at some short distance north of the Indian boundary line . . . and as striking the rapids in the River Des Moines, which rapids were understood . . . to be the rapids intended by the act of Congress."3

The letter to Lea was written in 1838, and the one to Allen was written in 1841.

Other Missouri arguments. Missouri's supporters, while conceding that the French referred to the lower rapids in the Mississippi River as "les rapides de la riviere Des Moines," maintained that by 1820, Americans had known them as the Des Moines Rapids. They contended that had Congress or the convention intended to refer to the Des Moines Rapids in the Mississippi River, they would have used the name by which they were generally known to Americans, and not, by giving literal translation to the French phrase, have misled Americans as to the rapids intended. There is evidence that these lower rapids

1Ibid., p. 10. 2Ibid. 3Ibid., p. 9.
were referred to as the Des Moines Rapids in 1820. Testimony to this effect was given by many individuals during the debate, including some who rejected Missouri’s claims. Much earlier than the convention, in 1807, the first authorized American explorer in this region, Zebulon Pike, encountered these rapids in his exploration to the source of the Mississippi River. In his report, Pike called them "Rapids De Moyen." On a map accompanying the report, the rapids were shown, with the more correct spelling as the "Rapids Des Moines." So even at this early date, a change in the use of French terminology was noticeable.

Missouri also maintained that a close examination of the Constitution would favor her claims. They pointed to the phrases "said River Des Moines" and "to the mouth of the same" as proof of their contention that the Constitution referred to rapids in the Des Moines River. These two references, mentioned above, follow shortly after the phrase "rapids of the River Des Moines" in the Constitution. The use of the phrase "said River Des Moines" indicated that the Des Moines River had been mentioned previously in the description of the boundaries. But the only previous mention of this river was in the phrase, "the rapids of the River Des Moines." Taking


\[2\] Ibid., Appendix to Part 1.
the view that this was a reference to rapids in the Mississippi River, there was no previous mention of the Des Moines River. However, taking the view that these rapids were in the Des Moines River, the use of the word "said" becomes clear. If the River Des Moines, referred to the second and third times, is actually meant to be the Des Moines River, and there appears little doubt of this, then it follows that the River Des Moines mentioned the first time was likewise the Des Moines River. The use of the word "said" would seem to indicate this. Had the authors of the Constitution meant the rapids in the Mississippi River, they would not have used the word "said." 1

III. RAPIDS IN THE RIVER DES MOINES

Missouri had maintained throughout the controversy that the rapids in the Des Moines River located at the Great Bend were the rapids called for in her Constitution. Much time was spent in debate in an effort to determine if there were any rapids in the Des Moines River formidable enough to have a boundary of a state located by their position. Iowa was able to produce a great deal of evidence against there being any significant rapids in the Des Moines River. Missouri had to concede that the Des Moines Rapids in the Mississippi were far greater than any in the Des Moines River. She agreed that the rapids in the Mississippi River were certainly formidable.

enough to have a boundary located by their position. Too, Missouri must concede that the Des Moines Rapids, or rapids of the River Des Moines, as the older inhabitants often called them, were well known at the time of the Missouri Convention in 1820. All of these points placed Missouri at a great disadvantage in trying to prove the rapids at the Great Bend were the ones intended in the Missouri Constitution.

Arguments against rapids in the Des Moines River. The most scientific evidence against Missouri was produced by an engineer hired by Iowa to survey the Des Moines River in 1846. His report showed the following information regarding each individual rapids from the mouth of the Des Moines River upstream ninety-three miles:

The first ripple noticed was twenty-four miles from the mouth of the river; and on eighty rods of its greatest descent, there was .73 foot fall.

On the twenty-sixth mile there was a fall of .85 foot in eighty rods at a point known as "Sweet-home Ripple."

At Farmington, on the thirty-fourth mile, there was a fall of 2.27 feet in ninety-six rods, and in eighty rods 1.89 feet.

On the forty-second mile, there was a ripple (near Benton's Port) of 1.26 feet fall in sixty rods, and 1.68 feet in eighty rods.

On the fifty-first mile at the Great Bend, where Brown's line began, there was a fall of 1.75 feet in eighty rods, or 21 inches. Brown had also taken a level there in August, 1837, and found a fall in that distance of 1 foot, 9 3/8 inches. The bottom of the river is rock with a thin stratum over which the water breaks when the river is low.
A fall of 1.75 feet in eighty rods was found near the fifty-third mile.

On the fifty-fifth mile, a fall of 1.81 was found in eighty rods.

On the ninety-third mile, a fall was found in eighty rods of 2.10 feet.1

This report revealed that the shoals on the thirty-fourth mile at Farmington, on the forty-second mile at Benton's Port, at the Great Bend on the fifty-first mile where Brown's Line began and the descents on the fifty-third and fifty-fifth miles were of equal magnitude. Neither of these had as much as two feet fall in eighty rods, and it was reported they were not perceptible during high water. If the Constitution actually referred to the Des Moines River, then which of these rapids is "the rapids" and why did Missouri choose the rapids at the Great Bend.

The same claim was made by A. C. Dodge in the House of Representatives in 1842. Dodge stated that the rapids claimed by Missouri "are not the first by several, which are met with in that river and are not equal in fall to some half a dozen others."2 But he did reveal that these rapids did have a name. They were called rapids of the Big Bend by the nearby residents.

In supporting Iowa's position, the House Committee on Territories in 1842 questioned:

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2News item in the Iowa Territorial Gazette, September 24, 1842.
On what grounds and with what propriety does Missouri contend that the rapids at the Great Bend are to give position to her line? They are not the first by three in ascending the river and are not equal in fall to some half a dozen others.1

They also contended, in conflict with delegate Dodge's testimony above, that none of the rapids, in 1820 or since, had borne any name whatever.

**Arguments in favor of rapids in the Des Moines River.** Apparently the rapids at the Great Bend were more prominent than the evidence given above indicated. Joseph C. Brown, who surveyed the line for Missouri, was a well qualified and competent surveyor. He journeyed the entire length of the Des Moines River from the Appanoose Falls to the mouth judging each obstruction in the light of the description given in the Missouri Constitution. Yet, he chose the rapids at the Great Bend as the point for his survey. They must have appeared more formidable to Brown than the surrounding rapids.

In 1835, Albert Lea, then a lieutenant in the United States Army, explored the Des Moines River from the Raccoon fork to the mouth. The following year, Lea had printed a short account of his trip describing the country that he passed through. In these notes he made mention of the rapids at the Great Bend. He said, "The first rapids that occur in the river above the mouth are those near the lower end of the Great Bend."2

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In addition, a map was constructed from Lea's notes, and on the Des Moines River at approximately the position of the Brown Line, the word rapids appeared. These were the only rapids designated by Lea on his map south of the Great Bend.

In addition to the above evidence, there was the report submitted by Lea as the United States Commissioner in 1838, and subscribed to by the Iowa representative, James Davis. The report read:

In ascending the Des Moines River from its mouth, several shallow places with swift currents are found below the Great Bend; but there is no obstruction of magnitude sufficient to deserve, or to obtain among the neighboring inhabitants, the appellation of rapids, below those at the place just named, where there is at low water, a fall of one or two feet in a distance of about eighty yards; and in part of the width of the stream the water falls perpendicularly about 10 or 12 inches... There are other rapids above the Great Bend, particularly those near the Indian village lately known as Appanoose's, and now as Keokuk's, which are about nineteen miles north of those at the Great Bend, and which they much resemble.

This evidence would seem to indicate that the rapids at the Great Bend were more significant than the others nearby. If the rapids mentioned in the Missouri Constitution were actually meant to be in the Des Moines River, it would seem that the rapids at the Great Bend were the best selection in the light of the Constitutional description. But, were these the rapids indicated in the Missouri Constitution?

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1A copy of this map can be found in Drawer 2 in the Iowa State Historical Building, Des Moines, Iowa.

IV. THE RAPIDS OF THE RIVER DES MOINES

While searching for information relating to the study in old newspapers, an article came to light which could explain the use of the strange phrase "the rapids of the River Des Moines." This article concerned an old river trader by the name of Paul Bazette, who apparently was well known and well liked by the residents of Keokuk. The gentleman in question was in town as a witness in a local court case, but because of his knowledge of the Iowa rivers, he was questioned regarding the controversy between Iowa and Missouri. He testified that the rapids in the Mississippi River were, years before, known as the rapids of the River Des Moines. He also stated that he had traveled up the Des Moines River and he well knew the existence of rapids in that river. He further stated that these rapids were always designated "The Rapids." He located these rapids as about the Big Bend.¹

This article certainly gives an explanation for the peculiar phrase appearing in the Constitution, an explanation never before expressed. The use of the article "the" was always pointed to by Iowa supporters as referring to particular or familiar rapids. Missouri contended that the phrase in the Constitution referred to position, while Iowa maintained that it was a name. Perhaps it signified both. Using the name

¹News item in the Lee County Democrat, May 7, 1842.
applied by Paul Bazette, "The Rapids," and adding the name of the river, the result is "The Rapids of the River Des Moines." Why use this particular phraseology? It could be that knowing the name "The Rapids" might apply to several rivers, the framers found it necessary to designate the river in which the rapids existed.

Was this the explanation for the wording in the Constitution? It is difficult to give an affirmative reply on the strength of just one article. This was the only reference to "The Rapids," despite a search for additional references. But on the other hand, it cannot be discounted. Perhaps in due time, additional references to "The Rapids" will appear. If so, it will certainly justify Missouri's arguments in the dispute.

V. THE SULLIVAN LINE AS THE TRUE BOUNDARY

There was a second phrase in the Constitution which caused some confusion between Iowa and Missouri. This phrase, making the said line to correspond with the Indian boundary line, was used by Iowa as a basis for claiming that the northern boundary of Missouri was the Sullivan Line. However, Missouri proved that the Sullivan Line was not the legal boundary. Still, there were many logical reasons for establishing the Sullivan Line as the true boundary.

Arguments in favor of the Sullivan Line. Iowa had
interpreted the Missouri Constitution as limiting the northern boundary to the old Sullivan Line. They made use of the following phrase in the Constitution as basis for this claim. The Constitution provided that the south boundary 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 latitude to the middle of the channel of the main fork of said River Des Moines ... 1

This argument was used mostly during the early part of the dispute, particularly in the newspapers. Governor Lucas made quite a point of this in his second proclamation on the boundary question. 2

There were many practical reasons for establishing the old Indian line as the boundary for Missouri. For one thing, all the public land surveys in this area were divided by the Sullivan Line. The General Land Office stated that it had uniformly regarded the Sullivan Line as the boundary between Iowa and Missouri in all its official actions relative to the lands on both sides of the line. 3 The line had long been

1 United States Statutes at Large, Vol. 3, p. 545.
3 News item in the Bloomington Herald, September 27, 1845.
recognized as the boundary between the Surveyor General’s District of Missouri and Illinois, and the Surveyor General’s District of Ohio, Indiana, Michigan, and Wisconsin. The public land in Missouri had been divided into two districts—the St. Louis District and the Salt River District. Both districts were bounded on the north by the Sullivan Line. In fact, it was reported that the public lands on both sides of the line was surveyed in such a way that irregular and small townships resulted.¹ If the Sullivan Line was not recognized as the boundary, then a great deal of surveying would have to be done over.

There was the point that the Sullivan Line had been recognized as the boundary of Missouri in most public documents. Nearly all maps indicated the north boundary as the Sullivan Line. There were, in all, fifteen Indian treaties referring to the Osage boundary of 1816 as the true boundary of Missouri.² As these treaties were drawn by the authority of the United States, they must be taken as recognition, on the part of the government, that the Missouri boundary and the old Indian boundary were identical.

As early as 1834, Congress had organized a territorial government bounded by the Sullivan Line. By 1836, counties

had been laid off in the territory bounded by this same line. For ten years Congress had governed the territory up to the Sullivan Line, all the time recognizing it as the proper northern boundary of Missouri. All of this was done without a single protest from Missouri.

Not to be entirely forgotten were the wishes of the inhabitants of the disputed area. The people of Van Buren County were, from all available information, entirely united against Missouri extending her northern boundary. Most of the people had settled there believing the area to be Iowa Territory. Quite possibly they had settled in Iowa wanting to live in a free state, and they would not accept that this area was claimed by a slave state. Only in the half breed tract was there any desire to be annexed by Missouri.¹

The United States Commissioner, Albert Lea, appointed in 1836 to obtain facts relative to the dispute, reported that the Sullivan Line was the "equitable and proper northern boundary of the State of Missouri, but that terms of the law do not allow the commissioner to adopt that line."² The confirmation of the Sullivan Line as Missouri's northern boundary had many supporters. The first group of any importance to propose the Sullivan Line as the boundary was the House Committee on

¹News item in the Dubuque Visitor, February 8, 1837.
Territories. At the conclusion of their report, the committee recommended to Congress that they "adopt and confirm the northern Indian boundary line . . . as the divisional line between the Territory of Iowa and the State of Missouri." The evidence of the committee was sufficient to sway the House to pass a bill echoing the views of the committee on August 8, 1842.

Arguments against the Sullivan Line. Missouri stated that the Constitution called for a parallel of latitude which passed through the rapids of the River Des Moines. They quite accurately pointed out that the Sullivan Line did not follow a parallel of latitude, nor did it qualify as passing through the rapids of the River Des Moines. In fact, the extension of the line would not pass through rapids in any nearby river. They maintained, and rightly so, that in no way did the Sullivan Line answer the boundary description as given in the Constitution.

The contention that the old Indian line was to apply to the northern boundary does not stand under a close examination. The validity of this claim was soundly rejected in the report issued by the Committee on Territories on March 26, 1842. The west boundary line was the only one that was to correspond to the old Indian line. In the phrase, "making the said line to correspond with the Indian boundary line," the only line previously mentioned was the meridian line passing through the

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mouth of the Kansas River, in other words, the western boundary of Missouri. The reference to the northern boundary, appearing later in the Constitution, was to a parallel of latitude which passed through the rapids of the River Des Moines.

A close look at the punctuation used in the Constitution points to the Indian line corresponding to the west boundary of the state. The phrase describing the western boundary is enclosed with semicolons and the phrase about the Indian boundary line is within these punctuation marks. The description of the northern boundary then follows, and no qualification was inserted in this section concerning the old Indian line. This implies that only the west boundary of Missouri was controlled by the Indian boundary line laid out by Sullivan in 1816.

Another possibility for the boundary line. Another possibility for the location of the northern boundary was voiced by the Solicitor of the General Land Office in a letter to the United States Commissioner, Albert Lea. Lea submitted this opinion as line two on the map accompanying his report on the boundary. The solicitor felt that the boundary was a parallel of latitude passing through the northwest corner of Missouri basing his opinion upon the phrase "to correspond with the Indian boundary." He felt that the northwest corner

1Lea, Report of Commissioner, op. cit., p. 197.
should determine this parallel of latitude rather than the rapids. There appeared to be no legal basis for this opinion. The Constitution made no mention of the northwest corner. In fact, the boundary could be either south or north of the corner in the description given in the Constitution, as the call for the northern boundary was a parallel of latitude passing through the rapids of the River Des Moines. This parallel might or might not pass through the northwest corner, but regardless of whether it did or not, the northwest corner could not limit the northern boundary of Missouri. The northwest corner would be important in determining the west line but not the north boundary line.

VI. CONTENTIONS BY IOWA AND MISSOURI

The dispute was discolored somewhat by accusations by both parties against each other. Each felt that there must be ulterior motives in the mind of the other when their position was opposed. Iowa was positive that speculators were behind Missouri's attempt to extend her boundary line. Missouri felt that Iowa was furthering her own interests by opposing Missouri's rightful extension of her boundary.

Missouri was accused of attempting to further the work of speculators in St. Louis. This charge was leveled by the Iowa Delegate, A. C. Dodge, before the House of Representatives in which he claimed "that but for speculators in St. Louis, New York, and elsewhere ... who have purchased these half
breed lands, we should never have heard a word said about extending the boundary of Missouri.\textsuperscript{1} These sentiments were echoed in most of Iowa's newspapers at that time. Since the north boundary of the half breed tract was a continuation of the north boundary of Missouri, as established by the treaty with the Sac and Fox Indians in 1824, the extension of the Missouri boundary farther north would naturally mean enlarging the half breed tract. It was only until after June 30, 1834 that speculators were allowed to buy these lands. It looked suspicious when Missouri claimed part of the Iowa Territory soon after this.

However, Missouri was not the object of all the accusations. Iowa received her share too. Before the House of Representatives, a letter from a member of the Missouri Convention was read in which the opinion was voiced that the recent difficulty "had its origin... in the desire of the early settlers of Iowa to contract the limits of the Half Breed country."\textsuperscript{2} A similar accusation was presented by Dr. Isaac Galland, a resident of the half breed tract. He insisted:

\begin{quote}
The motive was clearly apparent when a multitude of land sharks rushed down upon the Sauk and Fox half Breed tract to make their tomahawk improvements declaring it was Congress land and that they were pre-emptors.\textsuperscript{3}
\end{quote}

\begin{footnotes}
\item[1]News item in the Iowa Territorial Gazette, September 24, 1842.
\end{footnotes}
He also reported that citizens of Iowa destroyed the boundary markers in order to create confusion as to where the line was run. It was well known that the half breed tract was fertile[1] and it is possible that some men wanted to acquire some of this land by taking advantage of the government's pre-emption policy, although it is difficult to understand why, with all the rich Iowa land.

These accusations were passed back and forth throughout the controversy. They were expressed mostly as opinions and no one attempted to prove them. Perhaps this is an indication of their validity.

VII. THE SUPREME COURT DECISION[2]

On the 10th day of December, 1847, the State of Missouri filed her original bill against the State of Iowa, according to the third article and second section of the Constitution of the United States. Missouri alleged that the northern part of her state was obtruded on and claimed by the defendant for a space of more than ten miles wide and about two hundred miles long; and that the State of Missouri was wrongfully ousted of her jurisdiction over said territory and obstructed from governing therein; that the State of Iowa had actual possession

of the same, claimed it to be within her limits and exercised jurisdiction over it, contrary to the rights of the State of Missouri, and in defiance of her authority.

Iowa filed her cross-bill charging Missouri with seeking to encroach on the territorial limits of Iowa to the extent aforesaid, and more; prayed that, on a final hearing, a decree would be made by the court settling forever the true and rightful dividing line between the two states; that Iowa may be quieted in her possession, jurisdiction and sovereignty up to the line she claimed; and that the State of Missouri be perpetually enjoined from exercising jurisdiction and authority, and from disturbing the State of Iowa, her officers and people, in the enjoyment of their rights on the north side of the true line.

Missouri took the position that the parallel of latitude passing through the rapids of the River Des Moines at the Big Bend in latitude forty degrees, forty-four minutes, six seconds 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.

Iowa's position was that the lower rapids in the Mississippi River were, and must be held in law to be, the rapids called for in the Constitution; and that a parallel of latitude passing through the center of these rapids must be the northern boundary of the State of Missouri.
The Supreme Court decreed that the Federal Government had long since committed itself to the old Indian boundary by the actions of the Indian Department, the Department of Public Lands and Territorial Government. So in answer to Iowa's cross-bill, the court decreed that the United States was committed to this line when Iowa came into the Union and Iowa must abide by the condition of her predecessor, and could not be heard to disavow the old Indian line as the true southern boundary.

To Missouri, the court decreed that there was no rapids in the Des Moines River so conspicuous as to justify the location of a boundary, and therefore, Brown's Line could not be upheld nor the claim of Missouri be supported. The court cautioned Missouri that she had no right to complain. For ten years and more after coming into the Union, Missouri recognized the Indian line west and north as her proper boundary; her counties were extended up to this line before the controversy arose. When Congress ceded to Missouri the country west of the Sullivan Line, both parties acted upon the assumption that the ceded territory was bounded on the north by a line that should run west from the northwest corner of the old Osage boundary.

Sullivan Court decided that it was driven to that call in the Constitution of Missouri which declared that her western boundary shall correspond with the Indian boundary.
line; and, treating the western line of a hundred miles long as a unit, and then running east from its northern terminus, it would supply the deficiency of a call for an object that never existed. By a unanimous opinion of the Supreme Court on February 13, 1849, the northern boundary of Missouri was declared to be the Osage line as run by Sullivan in 1816 from the northwest corner to the Des Moines River, and that a line extended due west from said northwest corner to the Missouri River was the proper northern boundary on that end of the line. The court further ordered that the old Indian line be resurveyed and marked. The expense of this work was to be paid equally by Iowa and Missouri. The court appointed Joseph C. Brown of Missouri and Henry B. Hendershot of Iowa as the commissioners to find and remark the Sullivan Line.

Brown died and Robert W. Wells, who was appointed as his successor, resigned so William G. Minor was appointed as Missouri's commissioner. They marked the northwest corner with a solid cast iron pillar, four and one-half feet long, twelve inches square at the base and eight inches square at the top weighing about 1500 pounds. From this point, the boundary was run west along the parallel of forty degrees, thirty-four minutes and forty seconds to the Missouri River. Then the old Sullivan Line was located and marked between the northwest corner and the Des Moines River. Iron monuments were placed every ten miles, and on the old Sullivan Line, wooden posts
were erected every mile. The commissioners submitted their report to the Supreme Court at the December term in 1850. With the acceptance of this report and a court order compelling Iowa and Missouri to pay the balance due on the survey on January 3, 1851, the controversy came to an end.

Iowa sought to prove that there were no significant rapids in the Des Moines River, and it was some time, prove that the lower rapids of the Mississippi had, at one time,
At the time the boundaries of Missouri were established in 1820, very little was known about the area through which these boundaries passed. This ignorance of the location of the state boundaries made little difference when few people were settled in this area, but fifteen years later when the area on both sides of the boundary was populated, the exact location of the boundary between Iowa and Missouri had to be determined.

The controversy was caused by two interpretations of a portion of the paragraph in Missouri's Constitution establishing the boundaries of that state. Iowa interpreted the phrase, "rapids of the River Des Moines," to mean the lower rapids of the Mississippi River. Missouri insisted that this phrase indicated rapids in the Des Moines River. These rapids were important because the north boundary of Missouri was located by their position. Where they were located meant the difference between whether Iowa or Missouri had jurisdiction over some 2600 square miles.

Iowa sought to prove that there were no significant rapids in the Des Moines River, and at the same time, prove that the lower rapids of the Mississippi had, at one time,
States Government since 1787, when Missouri entered the Union.

Time. It had been recognized as the Boundary by the United

decreed that the true boundary of Missouri was the

outlawed. Now, not Missouri was the true boundary, The court

court where it was decreed that neither the Supreme

either. As a last resort, the problem was taken to the Supreme

it became clear that the Board could not settle the dispute,

a Missouri refused to accept a solution suggested by Congress.

ment. After several years, several Congressional attempts and

war Congress in the hope that this Board could effect a settle-

When it became clear that Iowa and Missouri could not

establish hostilities.

the Iowa Territorial Legislature joined to put an end to the

more responsible individuals in Clark County, Missouri, and in

caused the two states to come to blows over the area. But

Governor Lucas of Iowa and Governor Boggs of Missouri

threatened action to take over the area. The zealousness of

in the dispute when the outlawed the area in dispute and in-

Missouri was responsible for presenting the oxen.

From the remaining members of the Convention of 1820.

and submitted matters to the Senate to this effect to Congress

the Great Bend, were the Legislature intended by the Constitution.

to prove that rebels in the Des Moines River, located near

been called rebels of the River Des Moines. Missouri hoped
While the line did not qualify as the legal boundary, it was declared that it was the proper and equitable boundary of that state, Des Moines River. But on the other hand, evidence indicates that these rapids were not meant by the convention to limit the boundary of Missouri.

II. CONCLUSIONS

This study definitely established the fact that the lower rapids in the Mississippi River were at one time known as the rapids of the River Des Moines, and that these rapids were designated by this term by many people and in many public documents. Further, these rapids were so designated in 1820; although another term, Des Moines Rapids, was coming more into usage. Locate a boundary by utilizing known facts. The location of Missouri's contention that the rapids at the Great Bend were the ones intended in the Constitution cannot be supported. Although evidence points to the possibility that the rapids at the Great Bend were more prominent than surrounding rapids, they are not considered significant enough to have a boundary line located by their position, particularly so when these rapids are completely obliterated during high water. The one article suggesting that these rapids were designated "The Rapids," cannot be considered conclusive on the basis of a single reference.

Were the lower rapids in the Mississippi River, then, meant by Congress and the convention to be the point at which the north boundary would be located? It is almost impossible to speculate on the intentions of Congress. Although from the
information on hand, these probably were the rapids so intended by Congress. It is doubtful that Congress knew of any rapids in the Des Moines River. But on the other hand, evidence indicates that these rapids were not meant by the convention to limit the boundary of Missouri.

The testimony of the surviving members certainly indicates one thing: the members of the convention were ignorant about the geography of Missouri. There appears to be little doubt that the convention knew of the existence of rapids designated as "the rapids of the River Des Moines." It was probably known that these rapids were quite formidable and sufficiently so to locate a boundary by their position; however, their location was not known. It seems clear that many of the members of that Convention believed that these rapids were in the Des Moines River. It seems hard to believe that the location of so prominent an obstruction as these rapids was unknown to a majority of delegates to the convention, but this is the only conclusion that can be drawn. The testimony of several of these men was very convincing on this point and it cannot be believed that they all were not telling the truth in order to support Missouri's case. They seemed to earnestly believe that these rapids were in the Des Moines River. The fact that a map was constructed with the boundary line north of the Sullivan Line would indicate this. Also, the use of the phrase "said River Des Moines" in the Constitution would point to this assumption. Was the Sullivan Line the true boundary? The Supreme
Court thought so and they decreed it to be the boundary line. However, there was no legal reason to ignore the description given in the Missouri Constitution. The contentions of both states that the call for the rapids of the River Des Moines in the location of the line should have been sustained. It seems clear that Congress did not intend that the northern line of the state should correspond to the old Indian line; for, if that had been its intention, it would have so declared in express terms as it did in regard to the west line. It would appear that the court fell victim to the easy way out. They chose the course of effecting a compromise rather than judging the merit of each state's arguments. While in effect, the decision appeased both sides, it left unanswered one question: would the actual location of the rapids of the River Des Moines or the mistaken belief, on the part of a majority at the convention when they approved the enabling act, that these rapids were in the Des Moines River be considered paramount in a decision in a court of law?

This perhaps leaves an opening for further study in connection with the boundary dispute. This paper was not intended to end further study on the Iowa-Missouri boundary controversy. In fact, it has brought to light two possibilities for further search. Additional study might be performed in an effort to discover more information about the map constructed at the Convention and in an effort to find more references to the rapids at the Great Bend as "The Rapids."
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APPENDIX

This appendix is composed of extracts from letters.

City of Jefferson, December 3, 1889.

Sir:

You have, by the act of the 23d December, 1888, a

APPENDIX

instructed me to ascertain what is the condition of

the waters of the times through which are passed

the rivers of the State of Tennessee, and to

APPENDIX

that there may be obtained by the proper means,

the information which you have requested.

I am, &c.,

[Signature]
APPENDIX

This appendix is composed of extracts taken from the letters submitted by Missouri in support of her claims. The portions presented below are in reference to the rapids of the River Des Moines. The text of these letters was taken from United States House of Representatives Document No. 38, 27th Congress, 3rd Session.

City of Jefferson, December 21, 1840

Sir:

You have, I presume, seen in the public prints that a dispute has arisen respecting the true location of the north boundary of this State, as defined by the Constitution. That dispute grows out of the phrase in the Constitution "then from the point aforesaid north, along the said meridian line to an 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." Knowing that you were a member of the Convention which formed the Constitution and believing you to be well informed on all the proceedings of that Convention, I would ask you to give me the views entertained and expressed by the members of that body, at the time of the adoption of the Constitution and of yourself as to what rapids were meant by the "rapids of the River Des Moines" and what line it was that was to be made to correspond with the Indian boundary line. I would further ask you to state all you know, as much in detail as practicable and the circumstance which impressed on your memory what you may say.

Very respectfully,

Beverly Allen
Frankfort Kentucky, January 10, 1841

... I am unable thus hastily to bring my mind to bear upon the particular circumstance connected with the location of the north boundary, except so far as relates to the rapids of the river Des Moines. Those rapids then and now, I considered to be the rapids of the river Des Moines, and from that parallel of latitude to the point of intersection of a meridian line passing through the mouth of the Kansas River. No difficulty ever presented itself to the Convention on the subject of these rapids, that I have any recollection of indeed. I cannot conceive at that day that any existed.

B. H. Reeves

Jefferson City, Missouri, January 28, 1841

... I have a distinct recollection that a map was procured from the office of the Surveyor General, for the use of the Convention; but I do not distinctly recollect whether or not the rapids in the river Des Moines or the Des Moines Rapids in the Mississippi were marked upon it. I incline to the belief that the rapids in the river Des Moines were designated upon it.

Hiram H. Baber

Missouri Bottom, Missouri, December 30, 1840

So far as my knowledge extends, no other rapids than those in the river Des Moines were ever thought of, certain I am that no other was ever spoken of in the Convention nor out of the Convention within my hearing. I well recollect having a conversation with John C. Sullivan on the subject of the rapids in the Des Moines, not as there being the rapids called for in the act of Congress (for of this there appeared to be no doubt) but as to their magnitude and whether there was any considerable fall at any one place.

Jonathan Ramsey

Bridgeport, Missouri, January 13, 1841

I have no distinct recollection of the conversation had, but my own distinct impressions were that it was the rapids in the Des Moines River itself and not (those) in any other river that might be of the same name.

James Talbot
Booneville, Missouri, January, 1841

At that time I knew of (no) other Indian boundary but the one on the immediate west about which I made particular inquiry, as it bounded the territory I represented. In relation to the rapids of the river Des Moines, I can only say I heard of no other rapids of that name mentioned but those mentioned in the Constitution.

Robert P. Clark

Perryville, Missouri, January 6, 1841

I distinctly recollect of conversing on that subject with General Wm. Rector and Col. John C. Sullivan. The conversation was started by myself as to the expression used "the rapids of the river Des Moines." The conclusion was the rapids of the river Des Moines meant the rapids in the river and not those in the Mississippi opposite the mouth of the Des Moines. For the Convention to have said the Des Moines Rapids would as well have meant the rapids in the Mississippi at the mouth, as those in the river and to put the question beyond the possibility of a doubt the expression used in the Constitution "rapids of the river Des Moines" was intended for the rapids in the river Des Moines. I have no doubt from my recollection at this late period, that what I have stated was the idea and intention of the whole Convention.

James Evans

(No place or date available for the next four letters)

I never had a doubt that the rapids of the river Des Moines mentioned in the Act of Congress of 1820, and in our Constitution, meant the rapids of and in the river Des Moines and of and in no other river whatever and it is my confident belief that every member of the Convention entertained the same opinion. The whole north section of Missouri was then uninhabited and therefore the certainty of the precise point did not seem important for we supposed that long before the settlements would reach the border, the country would be fully explored, and the position of the rapids distinctly ascertained. I am satisfied, that for ten years after the formation of our Constitution I never heard it suggested that the rapids of the Mississippi River had any relation whatever to the designation of our north boundary.

Edward Bates
In the Convention, the subject of the boundary was referred to a committee of which I was a member. The committee and I believe the men of the Convention had free access to the office of General Rector, Surveyor General of Illinois and Missouri, which afforded extensive information. They likewise availed themselves of an opportunity of conversing with several gentlemen then in St. Louis, who had personal knowledge of the existence and locality of several of the objects called for in the proposed boundaries, especially the rapids in the river Des Moines. The information thus acquired left no doubt in my mind of the existence of such rapids and I have no recollection of any other rapids having been spoken of by any member of the committee or of the Convention and I have no knowledge or information of the existence of the rapids in the Mississippi called the Des Moines Rapids until after the dispute respecting the north boundary of this State had arisen.

John D. Cook

I knew so little, that I had to rely on the information of others in regard to the lines. I applied, more particularly to Gen. Wm. Clark, Major A. L. Langham and General Wm. Rector, the Surveyor General. They all concurred that the Indian boundary line on the west extended north so that an east line would pass thru the rapids of the river Des Moines, ought to be the north line of the State of Missouri. . . . and they all concurred that there were rapids in the Des Moines River itself, some 60 miles from the mouth. General Rector made me out a map of the boundaries of the contemplated State.

John Scott

I feel confident that if the line had been located in reference to the rapids in the Mississippi River the fact that the line was located in reference to them and that yet it did not extend to them, would have impressed these rapids and their position on my memory, so as to have given me, at this time, a distinct recollection of them . . . My impression is, that in running that line, it was ascertained that there were peculiar rapids in the Des Moines River, near to the point at which the Indian boundary line struck that river, and that the parallel of latitude passing through these rapids was substituted for the Indian boundary line, because the rapids in question constituted a point so marked as to be easily recognized.

Duff Green

July 14, 1842

I believe every member of that body understood the rapids in the river Des Moines to be the rapids intended by the Constitution.

Robert Wallace
Ralls County, Missouri, July 6, 1842

I am sure that the rapids spoken of in the Convention were the rapids in the river Des Moines, and it appeared to me, from the best information I could get, that the rapids were about 50 or 60 miles up that river.

Stephen Cleaver

St. Louis, April 14, 1841

I never heard any other rapids spoken of with reference to our boundary, by any member of the Convention than the rapids in the river Des Moines which rapids were understood to be at a short distance north of the Indian boundary run by Col. Sullivan in 1816... I was with some of the members of the Convention every day whilst they were in session and often attended their deliberations, and I am certain that I did not hear a doubt as to the accuracy of the location of the north boundary, as delineated on the map had there been any different understanding expressed at the time, it would most undoubtedly have come to my knowledge... I am... satisfied and convinced that I can't possibly be mistaken. It is not with me a vague recollection of a transaction, with many intervening years but it is a matter which has been constantly before me in my connection with the Surveyor General's Office.

William Milburn

1838

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... The Map was constructed in the Surveyor's Office, under my superintendence by direction of the Surveyor General and I believe either at the request of the Convention or of the members of a portion thereof in their individual and unofficial capacity... I am uninformd as to what became of that map and do not know that it ever was copied. I can't therefore, put you on the track for getting either the original or a copy thereof... My recollection is distinct, relative to the north boundary of the State, as outlined on the map. It was represented at some short distance north of the Indian boundary line... 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 said rapids was assumed from the general understanding of the time and from the particular information of Col. Sullivan, who was a member of the Convention and as the surveyor of the Indian line in 1816.

William Milburn