

SOUTHERN BOUNDARY OF IOWA.

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After the county of Scuyler was organized, about the first of January 1846, Samuel Riggs, the sheriff of Davis county, had put into his hands a writ of attachment against the property of an individual on the tract of land in dispute, and while attempting to serve the writ, he was arrested by the sheriff of Scuyler county on a charge of attempting to execute the functions of his office in Missouri, and was required to give security for his appearance at the next term of the court in that county. A few days after this, another attempt was made by a large number of men from Missouri to resist the execution of a process in the hands of the sheriff of Davis county, but without success, for the sheriff and his *posse*, though inferior in numbers, executed the writ and secured the property attached.

This dispute, about who had jurisdiction over this tract of country, had a bad influence in the community, and caused many reckless and desperate characters to rendezvous in that vicinity with the hopes that in the contest between the authorities, they might escape the punishment justly due their crimes.

The arrest of the sheriff of Davis county called forth a special message from Gov. Clark, then governor of the territory, to the legislature of Iowa, which was then in session, and they passed a special law authorizing the governor to draw upon the territorial treasurer for the sum of fifteen hundred dollars, and that the sum or any amount thereof which he might think proper, should be placed at his discretion for the employment of counsel to manage and defend all cases in which the territory or any of the citizens thereof should be a party on the one side and Missouri or the authorities of that State on the other, growing out of this difficulty.

The court of Scuyler county convened at Lancaster, the county seat, on the ninth of May, and an indictment was

found against Riggs, who immediately appeared and answered thereto in discharge of his bail.

David Rorer, of Burlington, a gentleman of high legal talents, was employed by Gov. Clark on behalf of Iowa, to defend Riggs. Rorer attended this term of the court to defend Riggs, but from a desire on the part of both parties to defer judicial action in the case till an adjustment of the disputed boundary question could be effected, the case was continued till the next term of the court, and Riggs was discharged upon his own individual recognizance, and he was subsequently discharged entirely.

To compensate Riggs for his trouble and expense, the Iowa legislature passed a law authorizing him to file his petition in the District Court of Davis county, claiming compensation for his time and expenses in defending himself against all prosecutions which had been commenced against him by the authorities of Missouri, for exercising his office on the disputed territory; and they provided that the court should hear the case and determine the amount which was justly due Riggs, and the amount so determined was directed to be paid out of the State treasury.

On the 17th of June 1844, Congress passed an act respecting the northern boundary of Missouri, in which it was provided, that the governor of Iowa by and with the advice and consent of the council of the territory, should appoint a commissioner to act in conjunction with a commissioner to be appointed by the State of Missouri, and the two were to select a third person, and it was made their duty to ascertain, survey and mark out the northern boundary of Missouri, and to cause plats of their survey to be returned to the Secretary of State of the United States, and to the Secretary's office of Missouri and Iowa,—which plats were to be accompanied with their proceedings in the premises. The commissioners were empowered to employ surveyors and other hands necessary to accomplish the survey, and the line established and ratified by them or any two of them, was to be final and conclusive, and to be and remain as the northern boun-

dary line of that State. But it was provided that this act should not go into effect until it should be assented to by Missouri and Iowa. Iowa was willing to concede to this proposition, and the legislature of Missouri passed an act assenting to this mode of settling the difficulty, but the governor of Missouri, John C. Edwards, placed his veto on the bill, and it failed to become a law. The governor's objection to this mode of settling the difficulty, seemed to be that it involved legal rights, and should be adjudicated by a judicial tribunal.

After this, application was made by both contending parties to Congress, to pass a law authorizing them to institute a suit in the Supreme Court of the United States, and have the controversy judicially settled.

This application was made on the part of Missouri by an act passed by the legislature on the 25th of March 1845, and on the part of Iowa by a memorial of her Council and House of Representatives, passed on the 17th of January 1846, in which both parties asked for "the commencement and speedy determination of such a suit as might be necessary to procure a final decision by the Supreme Court of the United States, upon the true location of the northern boundary of that State." Congress respected these requests and passed the necessary law.

After the passage of the law by Congress, authorizing the settling of the dispute in the Supreme Court, the legislature of Iowa passed an act empowering the governor to agree with Missouri for the commencement of such a suit as might be necessary to procure from the Supreme Court of the United States a final decision upon the true location of the southern boundary of the State.

This act made it the duty of the governor to cause to be procured all evidence which might be necessary to the legal and proper decision of such a suit, and to employ counsel and do whatever else might be necessary to maintain the rights of the State. Charles^v Mason was employed on the part of Iowa, who hunted up and prepared the testimony for the

trial, and he got Thomas Ewing of Ohio, to assist him in arguing the case before the court.

The State of Missouri filed the original bill against the State of Iowa, and the State of Iowa filed a cross-bill against Missouri.

This case was tried at the December term of 1848; and the Supreme Court decided that the line as surveyed by Sullivan, was the northern boundary of Missouri, which decision gave Iowa all the territory she claimed.

The court appointed Henry B. Hendershot of Iowa, and Joseph C. Brown of Missouri, commissioners to run out and mark the boundary line. Brown having died before the work was commenced, Robert W. Wells, was appointed in his place, but he resigned the trust, and William G. Minor received the appointment of commissioner on the part of Missouri.

The commissioners, for the purpose of making the necessary arrangements for the survey, met at St. Louis in March 1850, and selected their surveyors. William Dewey was selected on the part of Iowa, and Robert Walker for Missouri. The commissioners made the arrangement to meet with their surveyors and other parties at the point where Sullivan had established the north-west corner of Missouri. They left their respective homes on the tenth of April, and met on the twenty-eighth.

To aid them in their work before they started, they obtained from the office of the Surveyor General at St. Louis, a copy of the field notes of Sullivan's survey, but the space of nearly thirty-four years having elapsed since this work was done, the marks of the survey being nearly all obliterated, they could not readily find the spot they sought. No precise traces of the old north-west corner remained; the witness trees to it were on the margin of a vast prairie, and had apparently been destroyed years before; consequently its exact position could not be ascertained from anything visible near the spot.

The point known as the old north-west corner of Mis-

souri, was the northern termination of Sullivan's line, running north and south, run by him in 1816, and was one hundred miles north of the mouth of the Kansas river, and the point at which he turned east, run to the Des Moines river. His field notes showed that his miles were numbered north from the Kansas river, and east from the north-west corner of the State, beginning anew at that corner. Finding no conclusive evidence of the exact site of the required corner, they undertook to trace those lines for the purpose of finding some evidence of the old survey.

Near the supposed spot of the location of the 99th mile corner on the north line, they found a decayed tree and stump which corresponded in course, distance and description, with the witness trees to that corner, and cutting into the tree they saw what they supposed to be the remains of an old blaze, upon which was preserved a part apparently of the letter M. This supposition was verified by their measuring two miles further south to a point which they found to be Sullivan's 97th mile corner from one witness tree, which was perfectly sound, the marks upon it two or three inches beneath the bark, were plain and legible. On the east line they found the witness tree to the third mile corner, the wood upon which the marks had been inscribed, was decayed, but their reversed impression appeared upon the new growth, which covered the old blaze, and was cut out in a solid block. Prolonging these lines three miles from the points thus determined, their intersection was assumed as the required corner, and at that point was planted a monument designating the north-west corner of Missouri as the boundary existed before acquiring that tract of land known as the "plat purchase," lying between the old west line of that State and the Missouri river, which point was found to be in the north-east quarter of section thirty-five, in township sixty-seven north, range thirty-three west; in latitude forty degrees thirty-four minutes and forty seconds north, and in longitude about ninety-four degrees and thirty minutes west from Greenwich.

At this point they planted a large cast-iron pillar, weighing between fifteen and sixteen hundred pounds, four feet six inches long, twelve inches square at the base, and eight inches at the top. This pillar was legibly marked with the words "Missouri" on the south side, "Iowa" on the north side, and "State line," on the east.

From this corner they ran due west, keeping on the same parallel of latitude on which the pillar was erected, till they reached the Missouri river.

They commenced the survey on the 24th of May, and reached the river, a distance of sixty miles and sixty-one chains, on the 12th of July.

At the terminus of the sixtieth mile, as near the bank of the Missouri river as the perishable nature of the soil would admit, they planted a monument similar to the one erected at the old north-west corner of Missouri, the words "State line," facing the east.

The commissioners then returned to the old north-west corner and commenced to run the line east, and by close examination they were enabled to discover abundant blazes, and many witness trees of the old survey, by which they easily found and re-marked the line run by Sullivan in 1816.

The surveying of the eastern portion of the line was commenced on the 13th of August, and terminated on the 18th of September, it being a distance of one hundred and fifty miles forty-one chains and eight links, which with the sixty miles and sixty-one chains first surveyed, makes the southern boundary of the State between the Missouri and the Des Moines rivers, two hundred and eleven miles thirty-two chains and eight links.

Near the west bank of the Des Moines river, where the boundary terminates, on the line was planted a cast-iron pillar similar to the other two, with the words "State line," facing to the west. The line was also designated by cast-iron pillars four feet long, eight inches square at the base and five inches at the top, placed at intervals of thirty miles apart, and one four feet long, seven inches square at the base

and four at the top, at intermediate spaces of ten miles apart; all of which pillars mark in iron monument every ten miles the whole length of the boundary line.

Sullivan's line in some places was found to deviate from a true east and west line, which was corrected by the surveyors. The iron pillars were planted in Sullivan's line as found at the particular points, but as the line was bending in the ten mile spaces between the pillars, it was found necessary to erect wooden posts at the termination of each mile, in order to mark the line with more accuracy.

In the prairies, the mile posts are marked with the letters B. L., facing the east, the letter I. facing the north, and the letter M. facing the south, and the number of the mile on the west face of the post. Where timber exists the number of the mile is marked on witness trees, or pointers with letters appropriate to each stake, there being one tree marked on each side of the line, whenever it was possible so to do. The front of each witness tree is marked with the letters B. L. In all cases where the posts are set in mounds, the post is invariably nine links west, to designate it from other surveys.

This line as surveyed and designated under the direction of the commissioners Hendershot and Minor, was adjudged and decreed by the Supreme Court to be the true and proper boundary line between Missouri and Iowa. And thus closed a long and vexed dispute between the two authorities about the extent of their jurisdiction.

To defray the expenses of establishing and running this line, the State of Iowa and the State of Missouri, each placed at the disposal of their commissioner the sum of two thousand dollars. But this was not sufficient to meet their expenses, for they were engaged at the work one hundred and eighty days, and the Supreme Court allowed the commissioners each the sum of ten dollars per day for their services and two dollars per day for their expenses, and each of the surveyors eight dollars per day.

These allowances with other expenses made the survey

cost over ten thousand dollars, which left over three thousand dollars a piece for each of the States to pay. While the bill making the appropriations to meet these expenses was pending before the legislature, an incident happened which may not be uninteresting to mention.

Upon presenting to the legislature of Iowa the bill of items making up the aggregate of the expenses, the items of eight and twelve dollars per day for services, appeared to some of the members to be rather an exorbitant charge, particularly as they only got three dollars per day for their services, and the allowance of those bills met with much opposition. Hendershot at the time was a member of the Senate, and as he was dependent on the appropriations for his pay, he took much interest in getting it through the legislature. Seeing the opposition with which it met and fearing it might be defeated, he applied to George G. Wright, (who was also a member of the Senate, and afterwards Supreme Judge,) for his influence to assist in passing the bill. Wright hesitating a few moments, replied: "Well, Henry, I had as lieve help you steal as any man, but I really think you are dipping a little too deep into the public crib."

On examining the decree of the court, it was found that they were not the private charges of the individuals, but that the Supreme Court had ordered and decreed that the State of Missouri should pay over the sum of \$3,514.76, and that the State of Iowa should pay over the sum of \$3,514.76 to the commissioners Henry B. Hendershot and William G. Minor, in final and full discharge of their portion respectively of costs and expenses.

The legislature did not feel disposed to controvert the order of the court, and the appropriation was made, and this was an end of the controversy.

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