

**THE FACTS AND
HISTORICAL EVENTS
OF THE TOLEDO WAR
OF 1835, PP. 1-48**

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The Facts and Historical Events of the Toledo War of 1835, pp. 1-48 by W. V. Way

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W. V. WAY

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THE
FACTS AND HISTORICAL EVENTS
OF
58
THE TOLEDO WAR
OF 1835,

AS CONNECTED WITH THE FIRST SESSION OF THE COURT OF
COMMON PLEAS OF LUCAS COUNTY, OHIO.



BY W. V. WAY,
FERRISBURG, O.

TOLEDO,
DAILY COMMERCIAL STEAM BOOK AND JOB PRINTING HOUSE.
1869.

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Raisin Valley Hist. Soc.

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9-30-1924

CORRESPONDENCE.

At the semi-annual meeting of the Raisin Valley Historical Society, held at Tecumseh, Michigan, December 22d, 1868, at the close of an able and important address on the subject of the "Toledo War," the following Resolution was unanimously adopted:

Resolved, That the address of the Hon. W. V. WAY, of Ferrysburg, Ohio, on the "Toledo War," with such modifications as may be desired, if any, by the writer, be requested for publication by this Society.

B. D. BAXTER, Sec'y.

HON. W. V. WAY,

Dear Sir:

Herewith we transmit you a copy of the Resolution adopted by the Raisin Valley Historical Society, requesting for publication your impartial history of the almost forgotten "Toledo War." This history is of renewed interest and importance to our people at this time, in view of the petition of the citizens of Lake Superior district to the Legislature of Michigan to re-cede to the United States, so much of our Upper Peninsula as was annexed by an act of Congress to Michigan, in exchange for the loss of territory on our Southern border.

The petitioners desire the formation of a Territorial government over the Upper Peninsula, with the hope of obtaining material aid from Congress to develop its natural wealth, until admitted in the Union as a separate State.

If Michigan generously accedes to the prayer of the petitioners, will Ohio be equally generous and return to us the "disputed territory," made classic in our history during the "Toledo War," as the battle ground of pioneer chivalry?

Respectfully yours,

M. A. PATTERSON, President R. V. H. S.

E. N. NICHOLS, Act. Sec'y.

Tecumseh, Michigan.

PERRYSBURG, February 11, 1869.

MESSES. M. A. PATTERSON, President, and E. N. NICHOLS, Secretary,
Raisin Valley Historical Society,

GENTLEMEN: Your communication, with the Resolution of the Raisin Valley Historical Society, has been received. The Toledo War History is at your disposal.

It was originally written as a contribution to the Maumee Valley Pioneer Association. Although most of the incidents recorded took place in the Maumee Valley, and properly form a part of its local history, yet many of them occurred in, and equally form a part of the local history of the Raisin Valley.

The valorous deeds performed by the soldiers of Lenawee and Monroe Counties are well remembered, and duly appreciated by the old soldiers of Wood and Lucas Counties. The warriors on both side performed their parts it would be almost criminal in the historian of their exploits, to indulge in partiality.

If Michigan should now re-cede to the United States the valuable gift bestowed on her as a reward for her patriotism and zeal in defending the integrity of her soil, to create a new State in the Union, she will exhibit a generosity equalled only by the chivalry that merited the gift.

But while Ohio would applaud the deed, she is too regardful of the honor of Michigan, to lessen her merit by encouraging the performance of so generous an act with the interested expectation of a restoration of the "disputed territory."

Very respectfully yours,

W. V. WAT.

THE TOLEDO WAR.

In the early times of the Germans and Northmen of Europe, there was a custom, sanctioned by their Courts, that permitted a mode of trial called "wager of battle." This mode of trial was regarded as a great test of the honesty and sincerity of the parties that went to law. It permitted the defendant in a writ of right to apply for it; and allowed him to challenge his opponent to single combat to decide the case. It was unlike a modern duel, as the parties themselves did not fight; but chose some person to be their champion, to give and take the blows. The party whose fighting man flogged his opponent, had judgment entered in his favor for his claim.

This mode of trial was anciently introduced into England by her conquerors, but was not much practiced.

The persons that fought were required to make a stand up fight, until one or the other was completely vanquished, or until star-light appeared. The fight was conducted according to established rules.

I am not aware that this mode of trial was ever introduced into this country.

The case of *The State of Ohio vs. The Territory of Michigan*, in ejectionment, in 1835, growing out of an adverse claim to what was commonly called the "disputed territory," comes the nearest to this ancient trial by wager of battle, of any that I have found; although in many respects it fails to come up to the ancient precedent.

A report of that trial necessarily embraces a history of the first session of the Court of Common Pleas of Lucas County. I propose to report it and give a history of the cause of action.

EE.

In order to make the case intelligible, I shall have to refer to many public documents of the United States, and of the State of Ohio and Territory of Michigan in connection with the "unwritten history." For much of the "unwritten history," I am under obligations to Gen. Joseph W. Brown, of Tecumseh, Michigan; Gen. John Bell, of Fremont, Ohio; and Col. Mathias Vanfleet, of Maumee City, Ohio.

The Ordinance of the 13th of July, 1787, providing a government for the territory north-west of the Ohio River, defined the northern boundaries of what are now the States of Ohio, Indiana and Illinois, by the line dividing the United States from the British Possessions; but contained a proviso "that the boundaries of these three States shall be subject so far to be altered, that, if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan."

On the 30th of April, 1802, Congress passed an act authorizing the people of the Territory of Ohio to form a State Constitution, preparatory to her admission into the Union; and described her northern boundary as follows:

"On the north by an east and west line drawn through the southerly extreme of Lake Michigan, running east after intersecting the due north line from the mouth of the Great Miami, until it shall intersect Lake Erie, or the territorial line and thence with the same through Lake Erie, to the Pennsylvania line; Provided that Congress shall be at liberty at any time hereafter, either to attach all the territory lying east of the line to be drawn due north from the mouth of the Miami aforesaid to the territorial line, and north of an east and west line drawn through the southerly extreme of Lake Michigan, running east as aforesaid to Lake Erie, to the aforesaid State, or dispose of it otherwise in conformity to the fifth article of compact between the original States and the people and States to be formed in the territory north of the River Ohio."

The compact referred to is contained in the aforesaid Ordinance.

On the 29th of November, 1802, a convention of the people of Ohio, adopted a constitution under the aforesaid act, giving the

State the same northern boundary as contained in the enabling act, with this proviso:

"Provided always, and it is hereby fully understood and declared by this convention, that if the southerly bend or extreme of Lake Michigan should extend so far south, that a line drawn due east from it should not intersect Lake Erie, or if it should intersect the Lake Erie east of the mouth of the Miami River of the Lake, then and in that case, with the assent of the Congress of the United States, the northern boundary of this State shall be established by and extend to a direct line running from the southern extremity of Lake Michigan to the most northerly cape of the Miami Bay, after intersecting the due north line from the mouth of the Great Miami River aforesaid; thence north-east to the territorial line, and, by the said territorial line, to the Pennsylvania line."

The Maumee River, in the acts of Congress and treaties with the Indians, was called the Miami of Lake Erie, or the Miami of the Lake. Wherever the Miami of the Lake or Miami Bay is used, it means the Maumee. Where the Great Miami is used, it has reference to the Great Miami River, which empties into the Ohio River at the south-western corner of the State of Ohio.

The State of Ohio was admitted into the Union and created into a judicial district on the 19th of February, 1803, without any allusion by Congress to the boundary line. On the 11th of January, 1805, Congress created the Territory of Michigan, and defined her boundaries as follows:

"All that part of the Indiana territory which lies north of a line drawn east from the southerly bend or extreme of Lake Michigan, until it shall intersect Lake Erie, and east of a line drawn from the said southerly bend through the middle of said Lake to its northern extremity, and thence due north to the northern extremity of the United States."

Substantially reaffirming the original boundary contained in the act authorizing the Territory of Ohio to form a State Government.

Michigan extended her laws over and claimed jurisdiction to the above mentioned line given for her southern boundary.

This line is designated on our land maps as the "Fulton Line." It intersects Lake Erie east of the mouth of the Miami of the Lake, or Maumee River, and comes within the proviso in the Constitution of Ohio.