



Nebraska History posts materials online for your personal use. Please remember that the contents of *Nebraska History* are copyrighted by the Nebraska State Historical Society (except for materials credited to other institutions). The NSHS retains its copyrights even to materials it posts on the web.

For permission to re-use materials or for photo ordering information, please see:

<http://www.nebraskahistory.org/magazine/permission.htm>

Nebraska State Historical Society members receive four issues of *Nebraska History* and four issues of *Nebraska History News* annually. For membership information, see:

<http://nebraskahistory.org/admin/members/index.htm>

Article Title: Problems Arising from Shifts of the Missouri River on the Eastern Border of Nebraska

Full Citation: Daniel Henry Ehrlich, "Problems Arising from Shifts of the Missouri River on the Eastern Border of Nebraska," *Nebraska History* 54 (1973): 340-363

URL of article: <http://www.nebraskahistory.org/publish/publicat/history/full-text/NH1973MissouriRiver.pdf>

Date: 12/12/2014

Article Summary: The historically unstable channel of the Missouri River serves as the official boundary between Nebraska and adjacent states. Ehrlich describes problems that have arisen, related legislation, and the advantages and disadvantages of proposed solutions.

Cataloging Information:

Place Names: Omaha, Bertrand, DeSoto Bend and McKissick's Island, Nebraska; Carter Lake, Nottleman Island, Wilson Island and Schemmel Bend Island (Otoe Bend Island), Iowa

Keywords: DeSoto Bend, Carter Lake, McKissick's Island, accretion, avulsion, "dryland bridge" (Decatur), Army Corps of Engineers, *Nebraska v. Iowa* (1891), Iowa-Nebraska Boundary Compact (1943), *McManus v. Carmichael*, *Schemmel v. Iowa*, game-law enforcement, exclaves, enclaves, riparian law

Photographs / Images: channel changes of the Missouri River visible from the Nebraska bluffs above Decatur Bend; map #1: bends of the Missouri from Omadi Bend, south of Dakota City, to Rulo Bend; map #2: National Wildlife Refuge at DeSoto Bend; map #3: Blackbird Bend, showing 1867, 1943, and present channels; map #4: Carter Lake area; aerial view of DeSoto Bend area; McKissick's Island; Nishnabotna River; map #5: Missouri from Brownville to Nebraska City, including Evans Island and McKissick's Island; "dry-land bridge" built on the Nebraska side of the Missouri in 1951 (the flow of the stream was channeled under it in 1956)



From the Nebraska bluffs above Decatur Bend can be seen the channel changes of the Missouri River. The present channel is in the middle distance and a former channel in the background. Iowa uplands are in the far background.

PROBLEMS ARISING FROM SHIFTS OF THE MISSOURI RIVER ON THE EASTERN BORDER OF NEBRASKA

By DANIEL HENRY EHRLICH

Geographers have long concerned themselves with boundary problems between nations and have devoted considerable study to the situation of enclaves and exclaves where different nationalities are involved.¹ Little attention, however, has been directed to the friction that develops between civil divisions of the United States in response to physical factors which complicate the delimitation of an interstate boundary. Of these factors the most perplexing is undoubtedly the shifting channel of a river along which a boundary has been established. This characteristic is typical of several rivers that form state boundaries, and the Missouri River is perhaps the outstanding example. (Other rivers with comparable characteristics include: the Mississippi between Arkansas and Tennessee and between Louisiana and Mississippi, the Red between Oklahoma and Texas, the Sabine between Texas and Louisiana, and the Rio Grande between Texas and Mexico.)

When Nebraska was granted statehood in 1867, the Missouri was officially designated the boundary between Nebraska and the adjacent states of Iowa and Missouri and the territory that later became South Dakota. The experience of the states bounded by the Missouri underscores the disadvantages of choosing for a boundary any river with an unstable channel. This study analyzes some of the difficulties arising between Nebraska and her neighbors from this situation, with emphasis upon the relations with Iowa and Missouri. Following a brief survey of the highlights of legislation involving the states and

their boundaries, this study proceeds to examine major problems which have been occasioned by the peculiar characteristics of the Missouri River, and in a concluding section attention is given to the advantages and disadvantages of some proposed solutions.

The area under consideration is the floodplain of the Missouri River from Sioux City, Iowa, to Rulo, Nebraska (Map 1). A stretch of approximately 241 miles of river frontage is involved, of which 179 are along the Nebraska-Iowa border and 62 are along the Nebraska-Missouri border. Because the bed of the Missouri River is composed of alluvium throughout this area and because its shallow channel is subject to extensive meandering, the river undergoes frequent natural changes in position of channel. Further shifts have been intentionally induced by the Army Corps of Engineers in connection with efforts at flood control and improvement of navigation, as at DeSoto Bend (Map 2). The boundary between Nebraska and her neighbors to the east, therefore, does not correspond in all places to the present channel of the river, but in many areas has become a line separating tracts of land some distance from the river. Thus, about twenty-five areas of Iowa land and six pieces of Missouri land are west of the river, while some thirty-two areas of Nebraska land are on the Iowa side of the river and nine on the Missouri side. The size of many of these geographic anomalies, and indeed even their number, are very uncertain, but their total extent has been estimated at 28,000 to 29,000 acres.² The important areas are listed in the accompanying table with their approximate acreages.

Shifts in a meandering stream are of two major types. In the process of accretion, the stream moves gradually to the right or left, the banks moving with it. In the process of avulsion, on the other hand, the river suddenly abandons its channel and moves to a new one, leaving a meander scar or oxbow lake in its former position. The difference between accretion and avulsion is theoretically recognized in the law, but in practice the distinction is not always easily drawn. A river may move one way by accretion and back the other way by avulsion some years later. Islands may form in the river bed in such a way that it may be seriously questioned whether the channel lies to the left or the right of the land thus formed. These are various

TABLE 1
LAND AREA OF THE GEOGRAPHIC ANOMALIES*

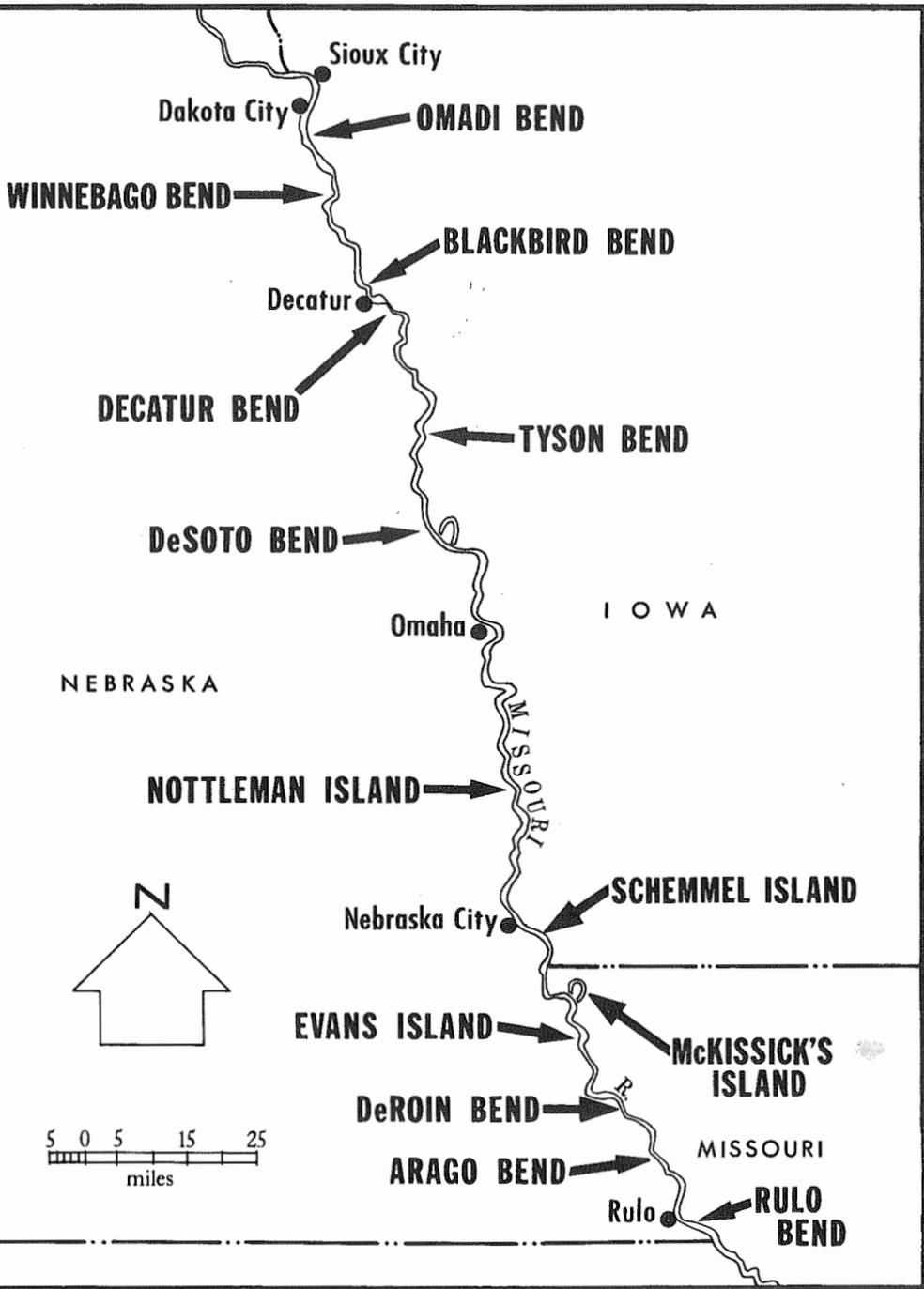
1. Iowa Land West of the Missouri River (25 areas)	A. Carter Lake Area	1,600 acres
	B. Other Areas	2,160 acres (est.)
	Total	3,760 acres (est.)
2. Missouri Land West of the Missouri River (6 areas)		3,200 acres (est.)
3. Nebraska Land East of the Missouri River (32 areas within Iowa and 9 areas within Missouri)		
	A. Winnebago Bend Area	780 acres (est.)
	B. Blackbird Bend Area	4,480 acres (est.)
	C. Decatur Bend Area	167 acres (est.)
	D. DeSoto Bend Area	7,800 acres
	E. Schemmel Island	450 acres
	F. McKissick's Island	4,370 acres
	G. Evans Island	1,600 acres
	H. Other Areas	2,000 acres (est.)
	Total	21,667 acres (est.)
	Grand Total: Between 28,000 and 29,000 acres	

*The only source known to have a complete inventory of these areas is the Missouri River Planning Project study which was prepared by the Iowa Conservation Commission in 1961. This publication has not been available. Therefore this table is presented in incomplete form.

aspects of a situation that has caused great uncertainty to state governments, county assessors, law enforcement agencies, and property owners and has, in two particularly curious instances, resulted in geographic isolation of populated areas from the states to which they belong.

In addition to causing uncertainty, some changes of river channel have had results that are downright humorous. Reference is to the case of the famous "Dryland Bridge" which crosses the river at Decatur, Nebraska (Map 3). The span was erected in the early 1950's over what was then the good earth of Nebraska in expectation that the Corps of Engineers would divert the river under it in connection with their program of channel improvement. The channel changes, however, did not occur for several years, and during this time the bridge remained essentially unused.³

In 1891 in the decision *Nebraska v. Iowa*, the United States Supreme Court ruled as follows:



MAP #1

"When grants of land border on running water and the banks are changed (by accretion) the riparian owner's boundary still remains the stream; but when the boundary stream (moves by avulsion) the boundary remains as it was, in the centre of the old channel; and this rule applies to a State when a river forms one of its boundary lines.⁴

Because the area of Carter Lake, Iowa, had been separated from the rest of its state in the avulsion of 1877, the area remained part of Iowa as a result of this historic decision (Map 4). In like manner the area of McKissick's Island, Nebraska, remained part of the state of Nebraska despite its isolation on the Missouri side of the river in the avulsion of 1867 (Map 5).⁵ Although there have been subsequent proposals to turn these areas over to Nebraska and Missouri respectively, their present legal status appears clear. In this respect at least, they differ from the other geographic anomalies along the river.

Delimitation of boundary elsewhere has been complicated by several factors to be discussed subsequently. Between 1900 and 1943 the Legislatures of Iowa and Nebraska each passed several resolutions providing for establishment of boundary commissions to meet jointly with similar bodies from the other state. The Nebraska acts included Missouri in their consideration. No agreement was reached with Iowa until 1943 and none has ever been made with Missouri.⁶

In 1943 the Iowa-Nebraska Boundary Compact was adopted. Under its terms the boundary of the two states was fixed as the center of the Missouri River channel at all points except Carter Lake, where the boundary remained unaltered.⁷ In May, 1971, the most recent bill for a similar compact with Missouri passed the Nebraska Legislature but appears not to have been ratified by Missouri. Its provisions differ from the Iowa-Nebraska compact insofar as it makes clear that the boundary lines of riparian property shall not be affected in any way by a change in state boundary lines.⁸

Because this provision was not explicitly stated in the Iowa-Nebraska compact, many difficulties have arisen from conflicts between the riparian law of the two states. According to Nebraska law, islands that form in the bed of the river by accretion become the property of the owner of the nearest land with river frontage.⁹ But Iowa law, following the precedent established in *McManus v. Carmichael*, holds such islands to be

the domain of the state.¹⁰ In consequence, Iowa claims as state property islands that have formed in the Missouri River by accretion, even though they may have belonged to Nebraska citizens before being placed closer to the Iowa side of the river by natural or man-induced movements of the river. This situation has given rise to some serious and prolonged conflicts, notably in the case of *Schemmel v. Iowa*, which concerned an island approximately 450 acres in area that formed near Nebraska City in the 1880's and was placed on the tax rolls of Otoe County in 1895. The island, originally known as Otoe Bend Island, is now usually referred to as Schemmel Island after the name of its present owner, who bought it in 1939. By this time the channel of the river was west of the island, which meant that with the passage of the Iowa-Nebraska Boundary Compact four years later the island automatically became Iowa land.¹¹ The owner paid taxes to Fremont County, Iowa, on this land for many years thereafter. When Iowa decided to enforce its presumed title to the island in 1961 in order to donate it to the Iowa Conservation Commission for recreational development, the owner resisted and filed suit. The case has remained in abeyance for some years pending final action in the litigation between Nebraska and Iowa that is now coming to the United States Supreme Court. Preliminary developments in this case suggest that the owner's title to the island will be upheld regardless of what state the island is ultimately deemed to be part of. Nettleman Island, which lies several miles to the north (Map 1) has a comparable situation.¹² Attention now turns to other significant developments involving the geographic anomalies along the Missouri River.

Specific Problems — The existence of many areas of land on the "wrong" side of the Missouri River raises numerous difficulties for public officials of the counties to which they belong as well as of those in which they are isolated. One may begin with a situation of long standing near Dakota City, Nebraska. Two areas were separated from South Dakota and Iowa by avulsion at uncertain dates soon after the land surveys were made. Although they became Nebraska land and were never claimed later by the neighboring states, they have inconvenienced surveyors ever since. Because the surveys of each state are different from those of others, the survey lines on

these two pieces of land do not join with those of adjacent land surveyed by Nebraska.¹³

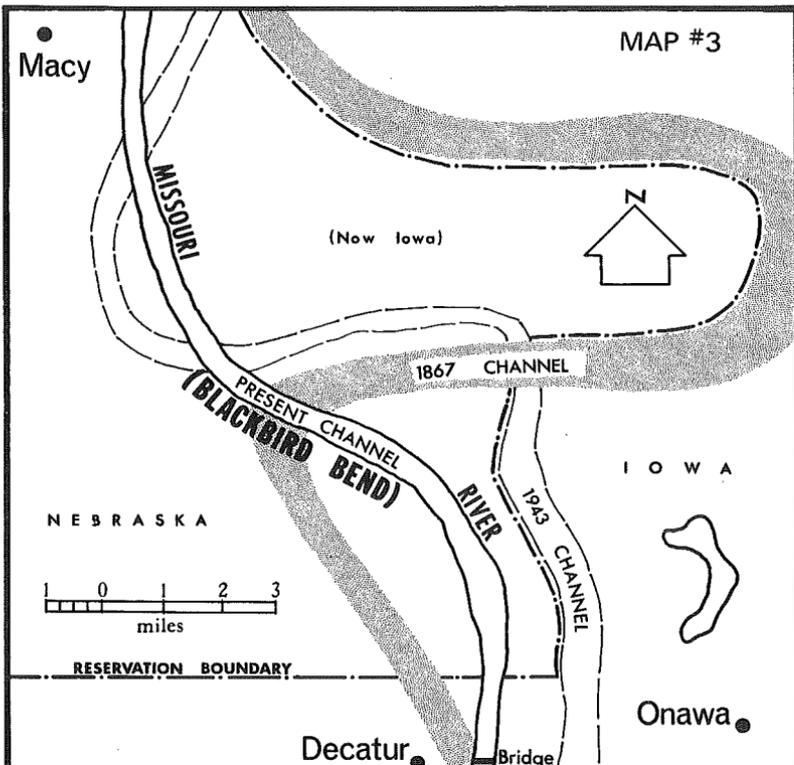
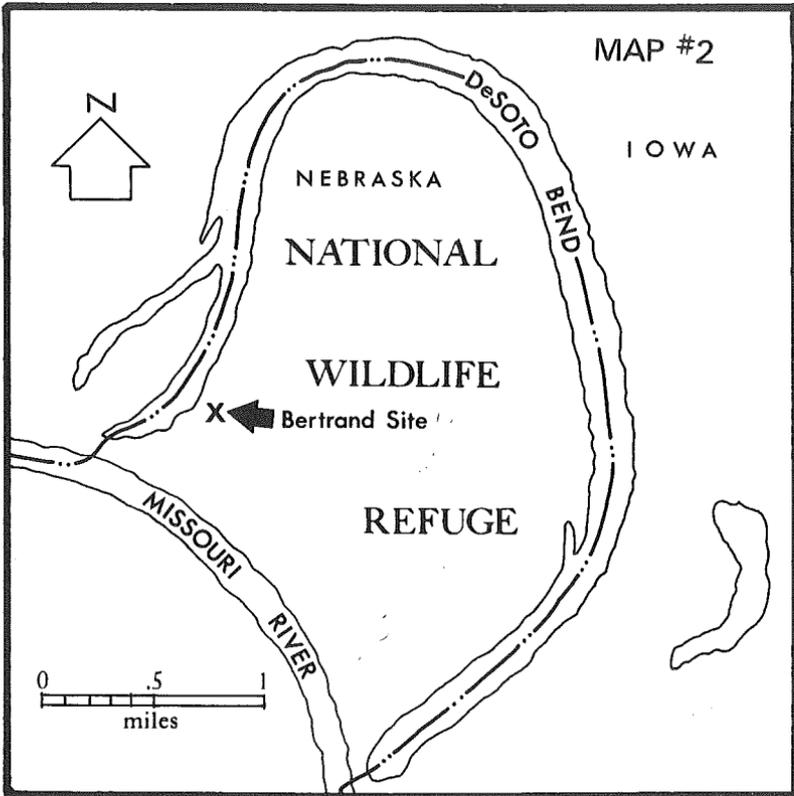
Elsewhere the inconvenience is more than merely technical in nature. Because the ownership, and very frequently even the extent, of the anomalous areas is disputed, it is often difficult to agree on assessment for taxation purposes. One tract of approximately 400 acres near Omadi Bend in Dakota County, Nebraska, is claimed by Woodbury County, Iowa. It is presently leased by a Nebraska farming establishment and is not taxed by either county. At least one area of Holt County, Missouri, isolated on the Nebraska side near De Roin Bend, is handled in the same manner.¹⁴ Assessment policies appear to be in abeyance pending satisfactory settlement of the location of boundary. But since the acreage is not known with certainty in many places, titles are often unclear. This problem came to a crisis in September, 1968, when the sheriff of Otoe County sold several small tracts of land near the river at auction on the grounds that the owners had not paid their taxes. This enraged the owners, who lived in Hamburg, Iowa, and claimed to have paid taxes to Atchison County, Missouri, for years.¹⁵

Lack of agreement as to what land lies in which state has also been cited as a factor in retarding economic development along the river, particularly in the urbanized areas of Omaha, Nebraska, City, and Council Bluffs, Iowa. Many industries have shown reluctance to locate new facilities there lest a change of boundary subsequently should place their properties in another state with economic effects unforeseen. At least one proposed office structure in Council Bluffs was never built because of persistent disagreement as to who had title to the land. The plot is immediately south of the Ak-Sar-Ben Bridge. The river is believed to have moved by accretion long ago but no one knows when or how far because key records do not appear to be available in Council Bluffs or in Omaha.¹⁶

Other complications arise from the fact that the distinction between accretion and avulsion cannot always be drawn clearly and that both have occurred in some areas at different times. When the Missouri River moves one way by accretion and back the other way by avulsion or by the hand of man, the boundary shifts gradually in the first instance, but the boundary remains the same when the river suddenly shifts into a new channel.

This is partly the origin of disputes over Indian Reservation lands in the area north of Decatur, Nebraska (Maps 1 and 5), where a total of some 5,000 acres of Omaha and Winnebago Indian property is allegedly isolated on the Iowa side of the river. The Omaha lands in this situation are east of Blackbird Bend (Map 5) and the Winnebago area lies farther north across from Winnebago Bend. County authorities do not levy taxes on United States government land, but the assessors of Woodbury and Monona Counties in Iowa have raised questions as to the Indians' title to the lands on their side, especially in view of the substantial acreages involved. Furthermore, unusual problems of law enforcement arise from the fact that the Indians regard themselves as exempt from the laws of whatever state they may be in as long as they are on their reservation. Since they do not consider themselves subject to state jurisdiction on their own lands, they are occasionally arrested for violation of Iowa laws, particularly game regulations, on lands that Iowa authorities consider to be part of their state. Because the lands are disputed, prosecution of Indians usually does not follow their apprehension, but the situation as a whole does little to improve the traditional misunderstandings between Indians and whites.¹⁷

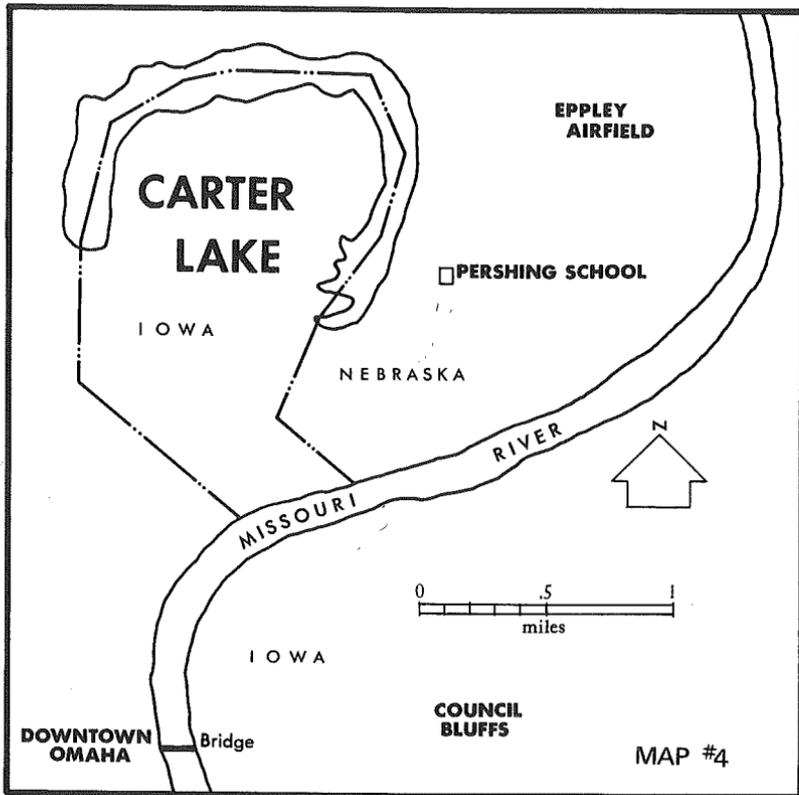
Although the problem of game-law enforcement is somewhat unique in the case of Indians on land where their ownership is itself questioned, it is by no means limited to regions where Indians are involved. For these laws vary considerably from one state to another. A few examples will suffice. Iowa requires that firearms be cased at all times when not in use; Nebraska has no such statute except within the Omaha city limits. The states have different limits to the number of hooks that may be dangled from one boat and to the fineness of mesh that is permissible in commercial minnow netting. In addition, the border in the area of study represents the division between the Mississippi and Central Flyways of the United States as organized by the Fish and Wildlife Service. The limits on daily kill of various fowl differ from year to year as well as from flyway to flyway according to supply. Although the supply in the Mississippi Flyway is normally somewhat greater, the limits are frequently more restricted, partly due to heavier population pressure in the states which comprise it. During times when



game is particularly plentiful along the east side of the river, Nebraska hunters sometimes cross the river to shoot birds near one of the areas claimed by their state, taking refuge on the Nebraska parcel of land at the first sight of a warden. This appears to happen with particular frequency near McKissick's Island, for the geographic limits of this area, unlike many others, are established with certainty. When game is plentiful in a locality west of the river and proximate to a piece of Iowa- or Missouri-claimed land, hunters from these states do likewise. Apprehension of these offenders is, of course, somewhat impractical. In one instance, however, two Nebraska hunters were arrested by an Iowa warden in Burt County, Nebraska, a few miles south of Decatur on land claimed by Iowa west of the river. They had not exceeded the limits of kill but were taken for not having Iowa licenses. Apparently no conviction was made.¹⁸

For several years there has been relative peace between law enforcement agencies on both sides of the river as far as fishing rights are concerned. Nebraska has granted fishing privileges on the Nebraska bank of the Missouri River to holders of licenses from the adjoining states since the early 1960's. Adoption of this policy effectively solved the controversy over fishing rights originating from diversion of the tailwaters of the Gavins Point Dam into Nebraska territory several years earlier. (For several years after diversion of the spillway, Nebraska forbade South Dakota licensees to fish from either bank of the river for some distance downstream.) Until a short time ago the three neighboring states permitted similar liberties to Nebraska licensees. Recently, however, Iowa has questioned the right of Nebraskans to fish the river from the Iowa bank. Iowa's reasoning may arise in part from the difference in distribution of population between the two states. In Nebraska more than a third of the people live in the counties bordering Iowa (nearly half of the population of Lancaster County is included), while for Iowa the corresponding portion is less than one-sixth.¹⁹

This supports the contention that reciprocity of licensing grants Nebraskans an unwarranted advantage in the use of a resource common to both states, although it can also be argued that the resource is the same regardless of the number of people in each state who use it. At least one county in Iowa,



Pottawattamie, definitely forbids anyone but an Iowa licensee to fish the river from the Iowa bank.²⁰

Another important controversy, as yet unsolved, developed in 1968 over the area of Wilson Island, a piece of land just south of DeSoto Bend. The area, which is actually no longer an island, is now on the Iowa side of the river but was asserted by one Nebraska senator to have been on the Nebraska side at the time of original statehood in 1867. It was further stated that the land was granted to Nebraska by the federal government for a school site as long ago as the 1850's. A counter-claim from the Iowa Conservation Commission held that the records of Washington County, Nebraska, contain no indication of school lands at Wilson Island. At a practical level it would seem that Iowa does have the stronger claim to this particular piece of property since the buildings on the land have been constructed with Iowa funds.²¹

The question of public versus private ownership of bodies of water has also been brought to the fore in the area of study. Although this matter does not appear to be specifically concerned with conflicting claims between the states on opposite sides of the river, it does bear citation in a discussion of the difficulties that any shift in position of a river can bring about. Reference is to the Bullard Bend Cutoff area south of Decatur, Nebraska, where a thumb-shaped inlet was artificially created as the Corps of Engineers directed the river into a new channel. Some officials insist that the water is a navigable body throughout and therefore, under the Nebraska State Constitution, is open to public use regardless of who may own the surrounding land. The lessee of the land around the cutoff naturally contends that the water and the rights to its use belong to him. In July, 1970, a Norfolk, Nebraska, judge ruled in favor of the lessee's right to exclusive use of the water. An injunction followed, under which a Game and Parks Commission officer in nearby Tekamah was forbidden to advise sportsmen that they might hunt, fish, or boat on the cutoff. The lessee's rationale is that the cutoff water is entirely within the state of Nebraska and is not navigable water as federal law defines the term.²²

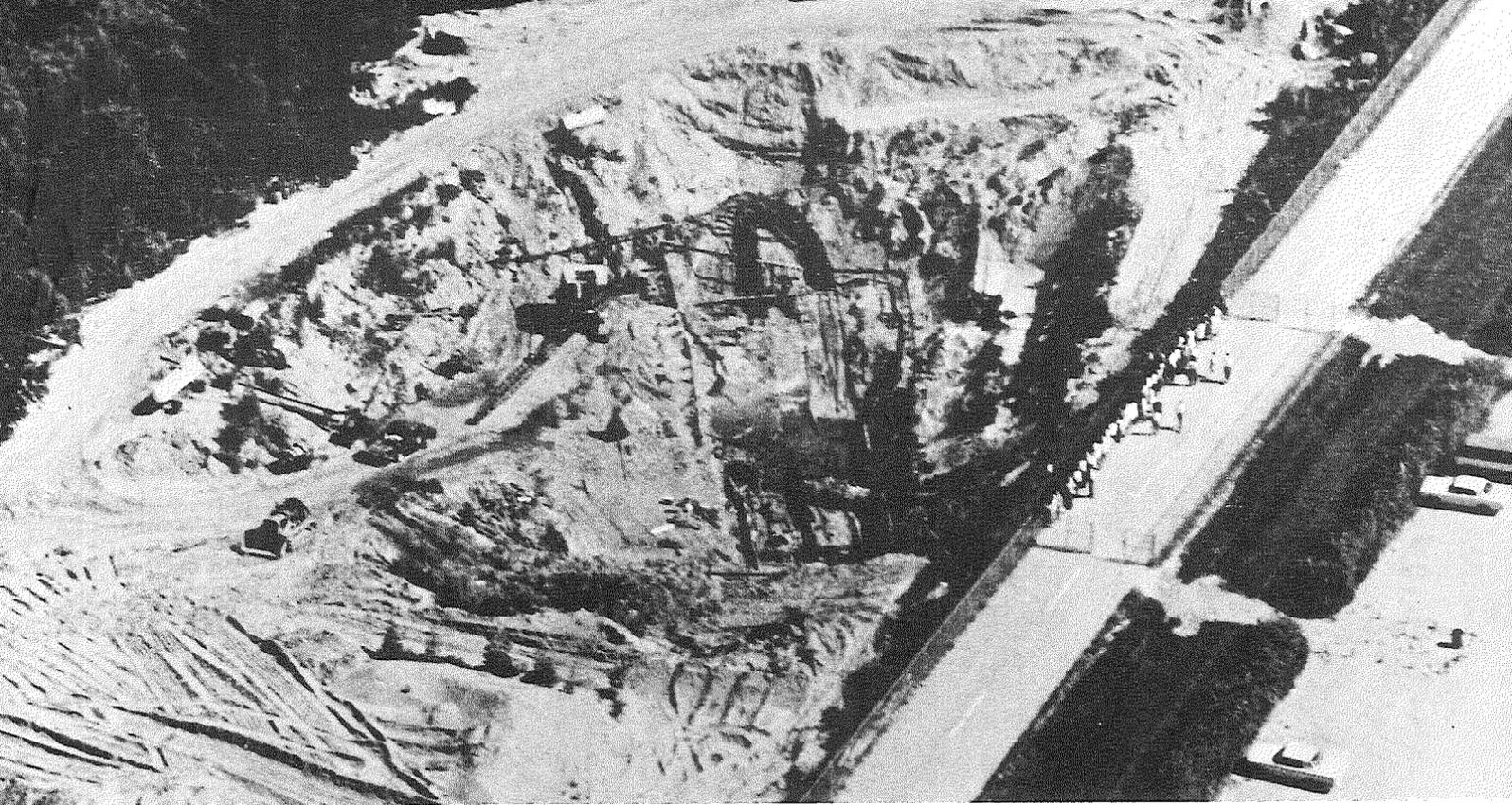
The shift of the river had the additional effect of obscuring a fascinating archeological treasure for more than a century. The steamboat *Bertrand*, which sank in 1865 in the area now included within DeSoto Bend Wildlife Refuge, was discovered in 1968 by two Omaha explorers. Attempts had been made at previous times, of course, to locate the steamer, but these were greatly complicated by the fact that the river had changed channel several times in the decades following the sinking. The actual excavation of the boat and recovery of its contents have been documented elsewhere,²³ but at the time of the discovery there was some question as to whether the excavation site was in Nebraska or in Iowa. The controversy in this case is moot indeed, because the area was by then part of the wildlife refuge and thus, by definition, federal land. Therefore the salvors negotiated with the General Services Administration rather than with either of the states for the right to search and recover the artifacts.²⁴ The site and the artifacts are now managed by the Bureau of Forts, Fisheries, and Wildlife.

The Exclaves: McKissick's Island and Carter Lake — Exclaves have been defined as "pockets of land lying outside the main territory (of one state) as islands within the territory of neighboring states."²⁵ In this study the term is applied specifically to the two geographic anomalies whose status has been clarified by U.S. Supreme Court decisions and which have been excluded from boundary compacts, ratified or proposed. An examination of their similarities and differences follows.

McKissick's Island and Carter Lake are distinguished from the other anomalous areas along the Missouri River by the criteria above as well as by the fact that they contain considerable population, all of whom must cross the territory of at least one neighboring state to reach the main part of their own state. No bridge crosses the Missouri at either point.

McKissick's Island is in the unusual situation of being largely dependent for its non-administrative services on a town two state boundaries away — Hamburg, Iowa. Until 1948, Hamburg shared with Watson, Missouri, the role of trade center for the McKissick's Island residents, but the bridge over the Nishnabotna River was washed out in a flood that year and has never been rebuilt.²⁶ (McKissick's Island is no longer an island in the strict sense. Like Wilson Island, it is now joined to the mainland on one side. The Nishnabotna River separates McKissick's Island from the mainland to the south and east, but no water isolates it from adjacent land to the north.)

Several developments have recently raised some question as to the future of settlement on McKissick's Island. Until 1966 the children attended a small school which also served as the polling place of the area. In that year it was torn down and McKissick's Island was incorporated into the school district of Auburn, the Nemaha County seat, and into the voting district of Peru. Voters must now make a long round trip via Nebraska City or Brownville to reach their polls. The children now attend school in Hamburg, Iowa, and their tuition is paid by Nemaha County to the Hamburg School District. The bus which transports these children must be insured for operation in three states. McKissick's Island also receives its mail from Hamburg, and the mail trucks that serve it are perhaps the only postal vehicles in the nation that cross two state boundaries on a local delivery route. Until the change in districting, property taxes on



The DeSoto Bend area of Nebraska is perhaps the best known of the tracts of land now isolated on the "Iowa side" of the Missouri River. The area, now a National Wildlife Refuge, also contains the hulk of the side-wheeler Bertrand, sunk in 1865 but located by salvors in 1968. Above is an aerial view of the Bertrand being uncovered in 1969-1970. A museum near the site now displays articles recovered from the boat.

McKissick's Island were lower than in surrounding areas of Atchison County, Missouri, but now they have risen, which causes irritation to some property owners who own land on the island as well as in Atchison County. Formerly the sums which they paid to Nemaha County were quite nominal. Proposals have been made to prohibit payment of tuition by Nebraska counties on behalf of Nebraska children attending school outside the confines of the state.

If and when such proposals are enacted into law, one of two developments appears probable. Either the present population of the island will largely disappear, or the area will be turned over to Missouri and become incorporated into the school district, trade area, and voting precinct of Watson. If it were annexed to Missouri, the bridge over the Nishnabotna River would undoubtedly be replaced. Among farmers in the adjacent parts of Atchison County, sentiment appears to be moving in favor of annexation for several reasons. The issues of taxation and law enforcement are commonly cited, as well as the fact that the island is now protected against flooding by the Missouri levee district. Population on McKissick's Island has declined in recent years and only half of the sixteen families present in 1955 remain.²⁷ If complete depopulation of the area is brought about, as suggested above, pressure for annexation to Missouri seems certain to intensify, for the farmland is very fertile and valuable.

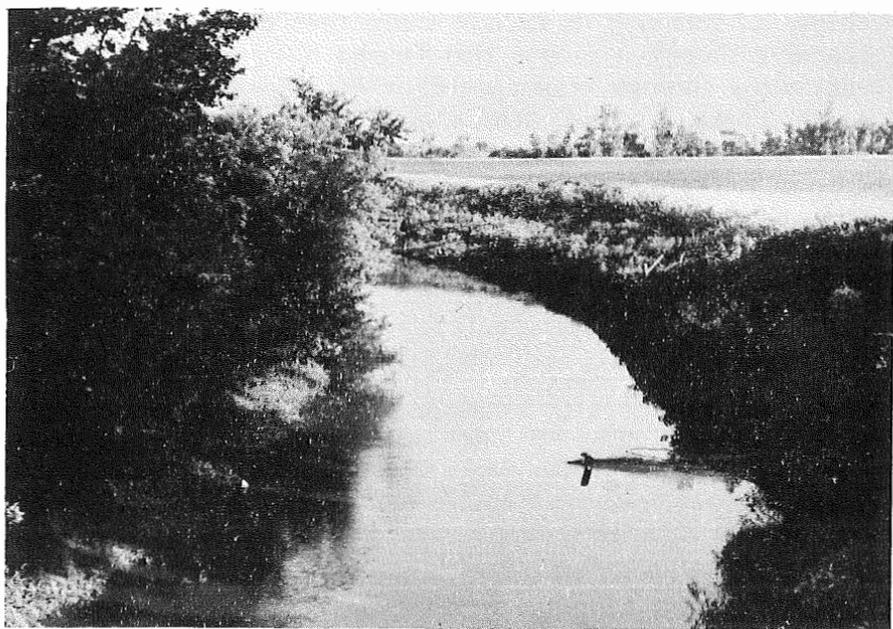
Carter Lake, Iowa, which is comparable to McKissick's Island in area, physical characteristics, and legal status, differs from the former area insofar as its population is large enough to make it relatively viable as a political unit. Population increased from 2,200 to 3,268 between 1960 and 1970 and its formerly rural character has largely disappeared.²⁸ There has been considerable friction between Carter Lake and Omaha for many years, owing to the fact that Carter Lake lies between two parts of the larger city.

There have been frequent proposals to annex Carter Lake to the city of Omaha. There were serious problems of law enforcement during prohibition days, when illicit traffic in liquor was relatively safe from authorities of both Nebraska and Iowa. Although this problem is no longer as blatantly obvious as it once was, it has not exactly disappeared, for unless a

Nebraska officer is in "fresh pursuit" of a person believed to have committed a felony in an area under Nebraska jurisdiction, he cannot enter the Carter Lake area. Extradition papers are first presented to Iowa authorities in other instances. During the early 1960's, resentment among Nebraska citizens against the existence of Carter Lake as an independent community was particularly strong because of widespread feeling that residents of the area were enjoying unfair advantages of taxation. Property taxes were, and still are, considerably lower than those of Omaha. At the time Nebraska did not have a sales tax or a state income tax and Iowa had both. Over half of the working population of Carter Lake is employed in Omaha and nearly all the people shop there, which gave undeniable support to the Nebraskans' argument.²⁹

The gasoline tax in Iowa is still lower, as evidenced by a large sign over a filling station which is a conspicuous feature as one drives from downtown Omaha to the Eppley Airport. Now that the tax structures of the two states are more similar than they were a decade ago, ill will on the part of Omaha residents does seem to have ebbed somewhat, but the argument for annexation of Carter Lake to Omaha has certainly not been abandoned. Proponents also hold that Carter Lake already shares many utility services with Omaha and point to the negotiations that must inevitably accompany construction of any facility, such as a pipeline, between the parts of Omaha that Carter Lake separates. Occasionally, too, they mention the case of the Cornish property. This was a small tract bordering the lake, which the owner had deeded to the City of Omaha for recreational purposes but which Omaha could never legally claim because it lies within Iowa.³⁰

Finally, attention has been drawn to the problems that the existence of the Carter Lake area poses to the Omaha school system. To begin with, the existence of boundaries normally results in duplication of school services, all of which could be eliminated if Carter Lake and Omaha were consolidated. A more specific complication was highlighted in 1960 by the Omaha school superintendent. The Pershing School in East Omaha is quite close to the Eppley Airfield, and the noise of aircraft poses a distinct inconvenience to students and teachers.



Fertile bottom land of McKissick's Island is isolated from the mainland of Nebraska by the Missouri River. A typical farmstead and corn fields on the island are shown in the top picture. The Nishnabotna River (bottom) effectively separates the island on the east from a part of Atchison County, Missouri. A 1948 flood swept away a bridge near this point.

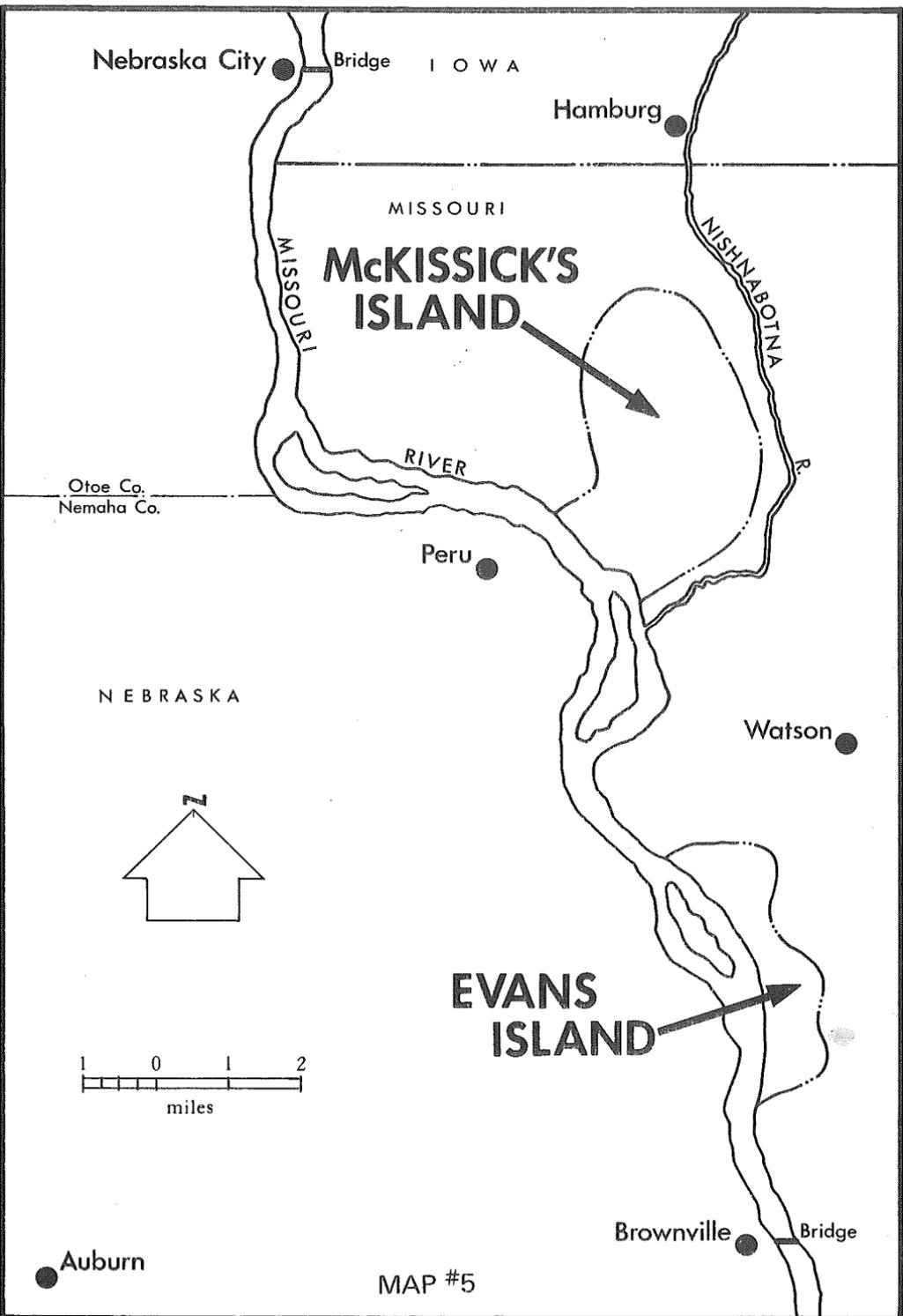
But it would be difficult to relocate, for it could not be moved very far west without placing it in Carter Lake.³¹

In certain instances the situation of the boundary in the Carter Lake area has led to curious forms of executive action. An interesting example is the attempt of Nebraska's governor to assist in arbitration of a strike involving a plant nearby. In the summer of 1942, when a walkout closed the Paxton and Vierling Iron Works, Governor Dwight Griswold volunteered to aid in settling the dispute. He reasoned that, although the plant was in Iowa, virtually the entire labor force lived in Omaha. His action was purely unofficial but stands as illuminating evidence of the practical action to which political leaders are sometimes moved by abnormalities in the geography of their state.³²

Residents of Carter Lake appear to be almost unanimously opposed to annexation to Omaha, mainly out of their desire to remain a small, independent community and also because of the distinctly lower taxes and administrative costs that they now enjoy.³³ It appears, in short, that Carter Lake has a better chance of retaining its exclave status than does McKissick's Island. Although it is true that Omaha has a precedent for annexation through prior acquisition of such communities as South Omaha, Florence, Benson, and Millard, a Supreme Court decision would have to be essentially reversed before Carter Lake could become part of the larger city. The same may be said, of course, about McKissick's Island. It should be noted, however, that Carter Lake is much less likely to be denied one of its essential services through legislative action on the part of the state to which it belongs.

Possible Solutions to the Boundary Problem — Legislation and litigation for resolution of the complicated and long-standing boundary disputes in the area of study are now in various stages of progress. There is widespread hope that the matter will be settled to the satisfaction of as many interests as possible, consistent with the requirement that individuals' basic rights not be violated.

Of the possible alternatives, the most potentially satisfactory seems to be the adoption of the proposed compact between Nebraska and Missouri and amendments to the original compact between Iowa and Nebraska. Because the Missouri River also separates Nebraska from South Dakota and Kansas from



Nebraska City

Bridge

I O W A

Hamburg

MISSOURI

McKISSICK'S ISLAND

NISHABOTNA R

MISSOURI R

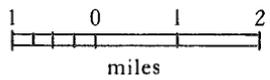
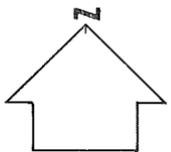
RIVER

Otoe Co.
Nemaha Co.

Peru

NEBRASKA

Watson



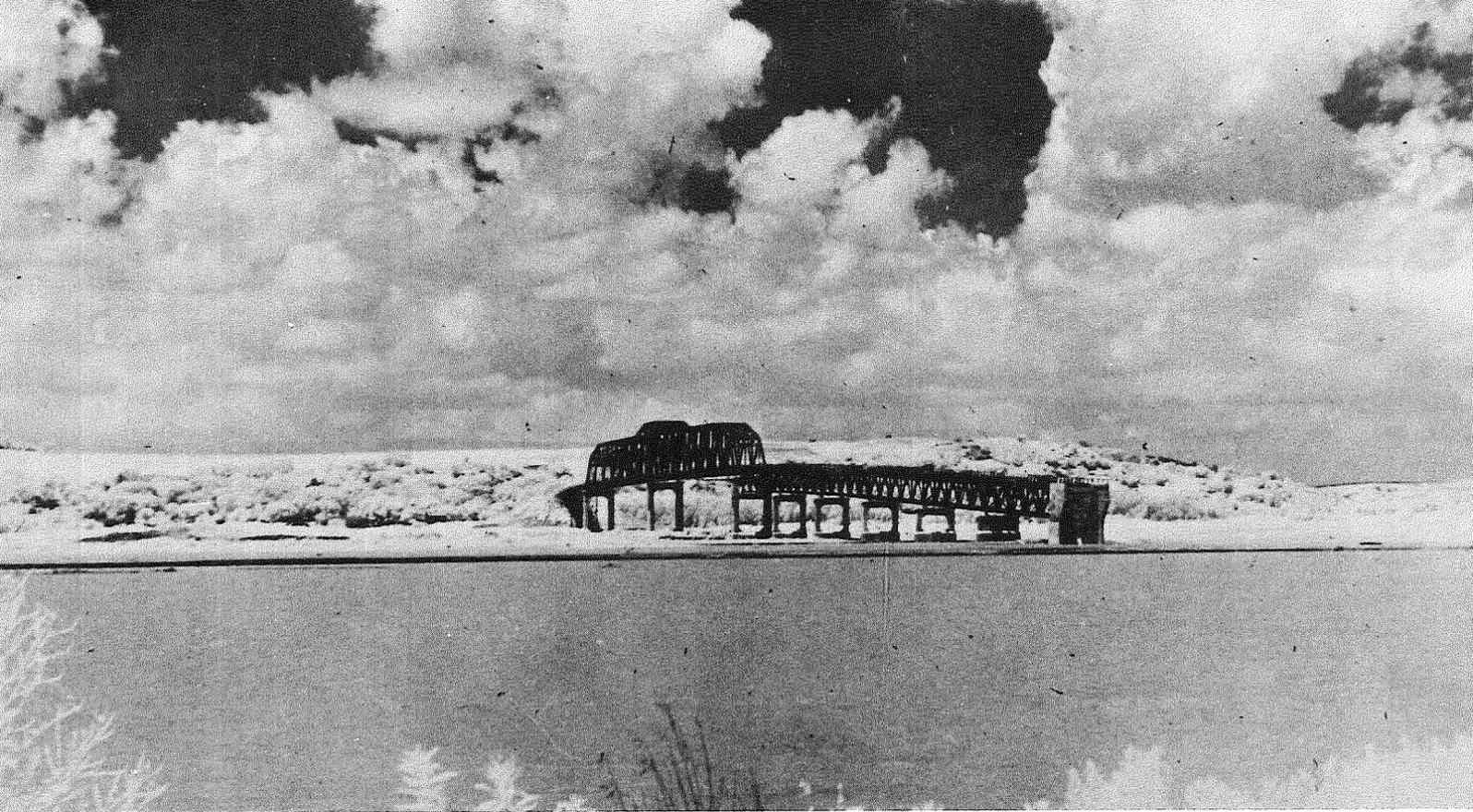
EVANS ISLAND

Brownville

Bridge

Auburn

MAP #5



A “dry-land” bridge was built on the Nebraska side of the Missouri River in 1951 and the flow of the stream channeled under it in 1956. (Courtesy of the Omaha World-Herald and the Hudleson Studio, Onawa, Iowa.)

Missouri, all five states should join together and adopt a uniform code of riparian law applicable specifically to their Missouri River frontage, thereby eliminating possible controversies over the manner in which accretion land in the river channel shall be handled.

The 1970's may be a more suitable time than the W.W. II 1940's for adoption of a compact to declare the center of the river channel the interstate boundary. By the time of the 1943 Iowa-Nebraska Boundary Compact, the Corps of Engineers had stabilized the channel so that further extensive shifting of the river did not seem likely. In that year appropriations for channel maintenance were diverted to the war effort then in progress; and by the time funding was restored for stabilization purposes ten years later, the river had shifted in many places, again leaving many parts of each state on the "wrong" side. The engineers found, moreover, that it was not practical in all places to hold the channel of the river on the boundary line as established in the 1943 compact, so great had been some of the changes since. The fact that the river moved both before and after the 1943 compact, of course, greatly complicates the task of finding the precise acreage of most anomalous areas. Now, once again, the corps claims the reasonable probability that substantial channel shifts will not occur in the future.

Opinions differ as to whether the river can ever be protected indefinitely against all changes. But assuming that avulsions are no longer likely, it would seem appropriate at this time for all states concerned to reach an agreement whereby the boundary is everywhere the center of the main channel and will automatically change with any movement of channel. If this were achieved, it would eliminate controversies over the anomalous lands from that time on. It is worth noting that the improvements brought about by the corps in channel stabilization and flood control are an important reason for the accelerated concern as to what land belongs to whom, for these improvements have increased the value of the land significantly. River-bottom land, after all, is enormously productive but has historically suffered from the single disadvantage that it is prone to frequent flooding. Its desirability and monetary value, therefore, always rise sharply as soon as the likelihood of periodic inundation is eliminated.

One obstacle to a compact of the kind just detailed, especially along the Iowa-Nebraska border, is the inequality of areas of land isolated on different sides. Nebraska claims considerably more land east of the river than Iowa does west of it (Table 1). Thus, if the anomalies were "traded," Nebraska would lose acreage overall.³⁴ Another proposal is to move the boundary to the edges of the floodplain itself — to the east in some places and to the west in others, so that neither state experiences net loss of land. But it seems most unlikely that agreement could ever be reached as to which tracts of land would go to which state. And it would be difficult to divide the floodplain land precisely, for in most areas of the region of study the river is much closer to the west bluffs than to the east bluffs.

At this writing the problem of state boundaries along the Missouri River still awaits satisfactory resolution. It should be kept in mind, however, that the proposed adjustments to the dilemmas in the foregoing pages do have at least some precedents. In the late 1960's parts of Mexico and Texas that had been isolated on the "wrong" side of the Rio Grande River were exchanged between the two nations. And at least once in the history of our country a very major change in state boundary has been made. In 1899 the boundary between Massachusetts and Rhode Island was shifted to the eastern shore of the bay in order to place the hinterlands of Providence and Newport more completely within the confines of Rhode Island.³⁵ In any event the geography of the Missouri floodplain promises to be the subject of many provocative treatises in the years to come.

NOTES

1. G. W. S. Robinson, "West Berlin—Geography of an Exclave," *Geographical Review*, 43 (October, 1953), 540-557; Richard Hartshorne, "A Survey of the Boundary Problems of Europe," in *Geographical Aspects of International Relations*, ed. C. C. Colby (Chicago: University of Chicago Press, 1938), 161-213.

2. "Disputes on Boundary Nearing Settlement?" *Omaha World-Herald*, September 16, 1970.

3. As told to the writer by a toll collector at the Decatur Bridge during field research for this study.

4. *Nebraska v. Iowa*, 143 U.S. 359 (1891).

5. *Missouri v. Nebraska*, 196 U.S. 23 (1904).

6. *State of Iowa v. State of Nebraska, Plaintiff's Resume of Evidence*, U.S. Supreme Court, October Term, 1964, 1-46; Nebraska Boundary Commission, *Report to the Legislature of the State of Nebraska Concerning the Missouri-Nebraska Boundary Compact*, 1-5.

7. *Ibid.*, 37.

8. 82nd Legislature of Nebraska (First Session), *Legislative Bill 1034*, 11-12.

9. *Nebraska v. Iowa*, Plaintiff's Resume, 60-61.

10. *Ibid.*, 79.

11. "Nebraskans: Iowa Stealing Land!" *Omaha World-Herald*, April 4, 1961.

12. "Islanders Happy in Homecoming," *Omaha World-Herald*, October 11, 1971.

13. *Plat Plan of Dakota County, Nebraska* (no date), obtained from County Assessor's Office, Dakota City, Nebraska.

14. As told to the writer in interviews on visits to Dakota, Nemaha, and Richardson Counties, Nebraska.

15. "Step Nearer on Boundary?" *Omaha World-Herald*, December 22, 1968.

16. "Bluffs, Roads Board Dispute River Land," *Omaha World-Herald*, February 14, 1969.

17. "Omaha, Winnebago Indians Fight for Land," *Omaha World-Herald*, February 11, 1967.

18. "River Land Squabble Simmers," *Omaha World-Herald*, October 15, 1961.

19. *United States Census of Population*, 1970.

20. This answer was received in response to a question on the telephone to the Sheriff's Office of Pottawattamie County.

21. "Iowa Didn't Use Nebraska Land," *Omaha World-Herald*, March 11, 1968.

22. Gene Hornbeck, "River's Sore Thumbs Throb," *Omaha World-Herald*, January 14, 1972.

23. Jerome E. Petsche, "Uncovering the Steamboat *Bertrand*," *Nebraska History*, 51 (Spring, 1970), 1-15.

24. *Ibid.*, 3.

25. Harm J. de Blij, *Systematic Political Geography* (New York: John Wiley & Sons, Inc., 1969), 46.

26. "Nebraska Corner Island Subject to New Missouri Claim Action," *Omaha World-Herald*, June 12, 1955.

27. Information gathered from interviews with various citizens in McKissick's Island as well as from Assessor's Office, Nemaha County, Nebraska.

28. "You Are Elected!" Pamphlet prepared by the "Keep Carter Lake In Iowa" Committee (1970), 3.

29. "Is Carter Lake Here or There?" *Omaha World-Herald*, October 29, 1964.

30. "Omaha's Claim to Land Fought," *Omaha World-Herald*, September 20, 1951.

31. "Burke Keeps Eye on Fight," *Omaha World-Herald*, December 27, 1960.

32. "Seeks to End Strike Here," *Omaha World-Herald*, July 7, 1942.

33. "You Are Elected!" Pamphlet, 4.

34. "Nebraska to Lose Acreage, Iowa Gain if River's Border," *Omaha World-Herald*, February 5, 1961.

35. Edward L. Ullman, "The Massachusetts-Rhode Island Boundary Zohe," *Geographical Review*, 29 (July, 1939), 291.