PREFACE

Thirty years before the War between the States, as the Civil War was referred to in the South, there occurred another war between states. Not a war in the military sense, this conflict between two states had no fatalities, grand battle plans, or five-star generals plotting their places in history. But make no mistake about it, Michigan and Ohio, eyeball to eyeball, were at serious swords’ points in 1835. Statehood and a disputed boundary were the two intertwined issues.

The Harris survey of 1817 agreed with the Ohio Constitution in placing the mouth of the Maumee River in that state. The Fulton survey of 1818 agreed with the language of the Northwest Ordinance, placing that geographic area in Michigan. The land between the two surveys was the Toledo Strip—a wedge-shaped slice five miles wide at the Indiana border and eight miles wide at Lake Erie.

Before it was over, the Toledo War would involve, marginally or directly, six U.S. presidents. James Monroe threw his presidential authority behind the boundary re-marking carried out by Captain Andrew Talcott. James K. Polk was the Speaker of the House when the Michigan statehood bill was signed into law. Martin Van Buren was vice president under Andrew Jackson and was the latter’s hoped-for successor during the political jockeying in 1835; it was Old Kinderhook, as Van Buren was known, who signed enabling legislation for Michigan’s statehood application. James Buchanan of Pennsylvania took the Senate floor to argue against Michigan’s claim to the Toledo Strip. Andrew Jackson, Old Hickory, was president when the Toledo War occurred, and it was he who fired Stevens T. Mason as Michigan’s territorial governor. No less a personage than former president John Quincy Adams delivered more than one passionate defense of Michigan’s position from his seat in the U.S. House of Representatives. Robert E. Lee got into the act, too. The future Civil War general and commander of the Army of Northern Virginia served on the 1834 Talcott survey team that fixed Michigan’s southern boundary along the line of that state’s original claim.

Newspaper accounts of the day tell of colorful characters and political one-upmanship that involved not just the frontline players in the two states but also men in the nation’s capital. The stage was set for a
showdown when President Jackson referred the boundary dispute to his attorney general, who ruled that Michigan was clearly in the right. The attorney general’s opinion does not have the force of law, of course, but it made a compelling argument that Michigan used to promote its case. Michigan likely would have won its claim to the Toledo Strip in a court intent on the letter, rather than the spirit, of the law. As it turned out, Ohio took its case to Congress and won.

Even the date of statehood is open to debate. The official date given is January 26, 1837, but the Great Seal of the State of Michigan gives 1835 as the date of statehood. On November 1 of that year, Michigan began functioning as a state, with a full slate of officers and a constitution ratified by the people. Could Michigan help it if Congress dragged its heels on admission?

Michigan’s birth was not an easy one. Its earliest petitions for statehood were rejected by Congress as inexpedient. Then, as a condition for statehood, Michigan was forced to cede its claim to the Toledo Strip. Additionally, in the federal capital, slavery was a ticking time bomb, and Michigan, as a free state, could not come into the Union unless it was paired with a slave state—in this case, Arkansas.

There was much rejoicing in Michigan when statehood became a fact, but strong feelings over losing the Toledo Strip lingered for a long time. Bad blood between the two states did not go away. Disputes over the boundary occurred as late as the 1970s. And one of the fiercest rivalries on the American gridiron is the interstate clash between the University of Michigan and Ohio State University, two titans who annually contend for regional and national supremacy. The game, whether in Ann Arbor or Columbus, is simply referred to as “the Big One.” Whatever feelings of animosity the two states still share may be said to date to Michigan’s bid for statehood and Ohio’s determination to block that application until wrestling control of the Toledo Strip from the territory of Michigan.

The canals that prompted such interest in the Toledo Strip on Ohio’s part were soon surpassed by the railroads. Toledo’s importance on Lake Erie was overshadowed by Cleveland. The Upper Peninsula, which was the consolation prize given to Michigan, has become a tourist mecca for much of the region and a source of great pride for all Michiganders, despite the fact that many in 1836 regarded it as a mostly valueless chunk of real estate, thrown into the deal to atone for the loss of all that valuable farmland and swamp in the Toledo Strip.
Throughout this narrative, reference will be made to the Northwest Ordinance of 1787. Along with the Declaration of Independence, the Constitution, the Bill of Rights, and Lincoln’s Gettysburg Address, it is one of the most important documents in American history. It called for the orderly development of land and established government on the frontier while providing for the creation of future states.

The language of the Northwest Ordinance still resonates today. It proclaims, “Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.” The need for education to illuminate the darkness is as compelling now as it was in frontier days. It is a timeless message that is still the best hope for humanity in a changing world.
I need not remark to you that this Act of Michigan will be wholly disregarded by Ohio.

— Governor Robert Lucas of Ohio to a correspondent

Like lions stalking prey, a posse of thirty armed Michigan men crept forward, shushing each other all the while. They had gathered in Adrian the previous night, before marching fourteen miles south to where they expected an encounter with the enemy. The men were carried part of the way in wagons before the roads gave out, in this part of southern Michigan near the Ohio border. A veteran of the march, Benjamin Baxter of Tecumseh, Michigan, remembered being furnished with U.S. arms and ammunition. His recollection of who supplied the arms was to be the subject of a heated dispute between the governor of Ohio and the secretary of war. In an official report, Baxter’s commanding officer said muskets for his men were supplied by the territory of Michigan, an important distinction.

In any event, it was noon on Sunday, April 26, 1835, at a field belonging to a certain Phillips, later known as Phillips Corners, when the men under the command of Lenawee County undersheriff William McNair surprised a party of Ohioans who were lounging about. The Ohioans’ duty had been to re-mark the William Harris survey line in a steadily worsening border dispute between the state of Ohio and the territory of Michigan. A strip of land, five miles wide at the Indiana line and eight miles wide at Toledo on Lake Erie, totaling 468 square miles, was the bone of contention. The Ohio contingent consisted of three
survey commissioners appointed by Governor Robert Lucas and some sharpshooters for their protection. The survey party had been followed—harassed, by some accounts—ever since they had begun running the line eastward from Indiana toward the mouth of the Maumee River.

Both sides were on military high alert. A month earlier, on March 27, Governor Lucas ordered part of the Seventeenth Division of the Ohio militia mustered. Across the border, Governor Stevens T. Mason had also placed his Michigan militia in a state of readiness, under the command of Major General Joseph W. Brown. Brown was an apt choice to lead the militia. One of the original founders of the Michigan town of Tecumseh, he now found himself in a position to put his medals on parade, so to speak, right in his own backyard.
The press in both states whipped up war fever. The March 28 issue of the *Cleveland Herald* reported, “Michigan is marching her troops to the scene of action, to repel any attempt on the part of this state to extend her jurisdiction over the territory in question.” On April 22, a rival paper, the *Cleveland Whig*, trumpeted, “In the boundary dispute between Michigan and this state, the citizens of Michigan have taken men prisoners just as if it were war. Ohio women have been treated with violence. We can destroy this band of ruffians, but the governor wishes us to forbear, and it is probably for the best.” Newspapers in Michigan tended to
cast the coming conflict as Michigan’s David standing up to Ohio’s Goliath. On March 6, Governor Mason in Detroit wrote to General Brown, “I enclose to you the report of the adjutant general of Ohio, cautioning me against resisting ‘the authorities of the powerful State of Ohio.’ I have no use for it here.” Mason seemed to be daring his southern neighbor to test the mettle of the great territory of Michigan.

Disagreement over ownership of the Toledo Strip, as this wedge of land was called, dated to the early nineteenth century. The Northwest Ordinance of 1787, which created the future states of Ohio, Indiana, Illinois, Michigan, and Wisconsin, mandated an east-west line as the boundary between the northern and southern states in the Northwest Territory. That line would begin at the southernmost tip of Lake Michigan and run eastward to where it intersected Lake Erie, thus placing the mouth of the Maumee River in the territory of Michigan.

But maps in those days were not precise, and there was considerable doubt as to the exact location of Lake Michigan’s southernmost point. Adding to the uncertainty was the absence of a good survey. When Ohio became a state in 1803, the importance of a harbor on Lake Erie became evident. To provide for this need, the state’s constitution included a provision that claimed the mouth of the Maumee River for Ohio, disregarding the boundary line placed by the Northwest Ordinance.

Congress accepted Ohio’s constitution, a necessary step to statehood, but did not expressly give consent to the changed boundary. After the War of 1812, a survey run by an Ohio-paid engineer named Harris, angling from the Indiana line to Maumee Bay, put a strip of land ostensibly owned by Michigan in Ohio. Not to be outdone, Michigan employed a survey engineer named Fulton, whose line closely followed the original Northwest Ordinance line. A federal survey by U.S. Army engineers in 1834 also put the disputed territory in Michigan. Although both states claimed the 468-square-mile chunk of territory, matters were quiet until Ohio began underwriting a series of canals that were intended to link up with the Maumee River near where it empties into Lake Erie. In 1827, with no opposition from Ohio, Michigan actually organized the Toledo Strip into tax-collecting, law-enforcing, local government agencies.

In the early 1830s, Michigan began to push for statehood. By now, many people in Ohio, including its political leadership, believed the planned canals would make Toledo, not yet organized as a city, a great maritime center. Until it was assured possession of the Toledo Strip and
the mouth of the Maumee, Ohio planned to use its strength in Congress to block Michigan’s bid for admission to the Union. George Fuller, in his *Michigan Centennial History*, writes, “The immediate cause of the war was the announced intention on the part of Ohio to survey and mark the line described in its constitution as the state’s northern boundary, that is, a line running on a diagonal from the southern end of Lake Michigan to the northernmost cape of Maumee Bay. The surveyors in marking this line from the Indiana border had to cross Lenawee and Monroe counties in the Territory of Michigan.”

At the request of President Andrew Jackson, U.S. attorney general Benjamin F. Butler addressed the jurisdictional dispute and opined that Michigan was in the right. Furthermore, he said, Michigan’s Pains and Penalties Act, making it a criminal offense, punishable by a heavy fine or imprisonment, for anyone to attempt to exercise any official functions within the jurisdiction of Michigan under any authority not derived from the territory or from the United States, was a valid law. As early as February 23, 1835, just eleven days after the act was passed, Governor Lucas wrote to a friend, “I need not remark to you that this Act of Michigan will be wholly disregarded by Ohio.”

When Butler’s ruling came in March, Lucas brushed it aside as inconsequential and ordered a survey crew to run the line when the weather warmed up. Mason bided his time, ordering General Brown to keep an eye on the movements of the interlopers. Scouting reports indicated that the Ohioans were armed, and enforcement of the warrants for their arrest would require a posse of armed men. When the Ohioans arrived within the county of Lenawee, Undersheriff McNair and his posse of thirty men were poised to pounce. The next six months of hostilities, such as they were, would be known as the Toledo War.

But the men on both sides of the line at Phillips Corners that Sunday morning were not thinking about history or the Pains and Penalties Act. A few were nursing hangovers. After a “night of jollification” in Adrian, Benjamin Baxter wrote, “we started out on a Sabbath morning for the invaded territory.” Baxter was not even of legal age to join the troops, but like many a young lad ambitious of military glory, he ran away from home and joined McNair’s forces. He must have wondered why they had time to party in Adrian, given the seriousness of the situation.

Undersheriff McNair was prepared to serve warrants for alleged violations of the Pains and Penalties Act. His marching orders were to ar-
rest the Ohio survey party or to run them out of the territory, and it was with a sense of heightened anticipation that his men, peering through the trees, spied their quarry taking their ease. McNair stopped to consider what to do next. Ordering his men to stay a distance off, he warily approached the camp of the enemy with an aide.

It was a tense situation for both sides, this first meeting of “statesmen” and “territorialists.” McNair inquired as to the whereabouts of the survey commissioners. Told they had left and would return shortly, he decided to wait. But when his men, impatient for activity, arrived on the scene to ask for instructions, the Ohioans suddenly grabbed their rifles. One of the Ohio party, Colonel Hawkins, was immediately arrested, and a few more surrendered on the spot. Nine other riflemen fled and took refuge in a nearby cabin, where they barricaded themselves inside. Surrounded by the Michigan posse, who were spoiling for a fight, the Ohioans were ordered by McNair to give up; they refused. Eventually they came out with their rifles cocked. The Michigan and Ohio men faced each other, about eight rods apart, according to McNair’s report, when the Ohioans suddenly bolted for the woods “in double quick time.”

Reports of what happened next vary. According to McNair, his men fired a volley over the heads of the fleeing Buckeyes and gave chase. The discharge of thirty or so Springfield muskets echoed and reechoed in the woods. A number of the pursued escaped and, meeting up again with the survey commissioners, made their way through the Black Swamp to Perrysburg, with the added humiliation of tattered clothing and numerous mosquito bites.

Back at Phillips Corners, a handful of Ohio men were taken into custody and jailed at Tecumseh, then the Lenawee County seat. Two of the prisoners were released for lack of evidence; six others posted bail; and one, Colonel J. E. Fletcher, refused bail and opted to remain a prisoner—under orders, he said, from Governor Lucas. Benjamin Baxter later reported, “Our prisoner, Col. Fletcher, remained with us for many months, a genial gentleman not suffering apparently from his incarceration, but sometimes subjected us to the inconvenience of hunting him up when we had occasion to use the jail for some counterfeiter or horse thief, as he was likely to be found riding with one of the sheriff's lovely daughters, having taken the jail keys with him.” In the Battle of Phillips Corners, the first real skirmish of the Toledo War, no one was injured. A claim by the Ohioans that a Michigan musket ball had “passed
through the clothing” of a member of their party was dismissed as a joke. McNair humorously reported to Governor Mason that “the commissioners made good time through the swamp” and arrived at Perrysburg that next morning “with nothing more serious than the loss of their coats.”

The events of Phillips Corners were not so amusing to Ohio. The re-marking of the state’s northern boundary was stopped dead in its tracks. The upstart territory had given the established state a comeuppance. Governor Lucas had lost face with his people. The three Ohio survey commissioners who eluded capture at Phillips Corners wrote to Lucas that they deemed it “prudent” to suspend their activities until such time as they could adequately be protected. Unbeknownst to them, on April 15, Lucas had ordered Major General John Bell to muster 500 men as a protection squad for the surveyors, but Bell was only able to raise 292 men.

The commissioners appointed by Governor Lucas and charged with re-marking the Harris line were Jonathan Taylor of Licking County, Uri Seely of Geauga County and John Patterson of Adams County. In a letter to Lucas from Perrysburg, Ohio, dated May 1, the trio gave a report of what happened at Phillips Corners. They clearly tried to put the best face on an embarrassing situation. Thus they wrote, “During our progress [of marking the line], we had been constantly threatened by the authorities of Michigan; and spies from the Territory. . . were almost daily among us.” On Saturday, April 25, the commissioners and their party “retired to the distance of about one mile south of the line, in Henry County, within the state of Ohio, where we thought to have rested quietly, and peaceably enjoy the blessings of the Sabbath.”

In their report, Taylor, Patterson, and Seely doubled the size of McNair’s invading force: “An armed force of about fifty or sixty men hove in sight within musket shot of us, all mounted upon horses, well armed with muskets, and under the command of General Brown of Michigan. Your commissioners. . . thought it prudent to retire and so advised our men.” They were, in fact, outnumbered. The commissioners said they had only five armed men as lookouts among them; other reports had nine or ten armed men. The Ohio version has the retreating Buckeyes being “fired upon” by the enemy. In any event, no one was wounded. On that, both sides agree.

Interestingly, the commissioners, who were not even at the camp
when McNair’s men arrived, nonetheless counted “thirty to fifty shots”
fi red at them and noted, “Our party did not fire a gun in turn.” They re-
ported to Lucas, “Your commissioners, with several of their party, made
good their retreat to this place. But sir, we are under the painful neces-
sity of relating that nine of our men, who did not leave the ground in
time, were taken prisoners, and carried away into the interior of the
country.” The nine named are “Cols. Hawkins, Scott and Gould, Major
Rice, Capt. Biggerstaf and Messrs. Ellsworth, Fletcher, Moale and Rick-
et.”

If there was any question about Michigan retaining jurisdiction of
the disputed land, all doubts now were removed. In fact, after the Battle
of Phillips Corners and throughout the summer of 1835, Michigan con-
tinued to vigorously enforce the Pains and Penalties Act by serving
process on alleged violators.

For now, it was enough that the routed Ohio forces arrived at Per-
rysburg in disarray and with their clothing torn, there to relate to Gov-
ernor Lucas how they bravely escaped the attack of General Brown and
how their missing comrades were taken prisoners. Lucas reported to
President Andrew Jackson in Washington, who sent a copy to Governor
Mason, requesting a statement of facts from the officers engaged in the
melee. McNair’s report said the proceedings were civil in character and
not a military expedition.

While the politicians deliberated on what to do next, the people of
Michigan rejoiced at the news from Phillips Corners. In a headline story
of May 9, 1835, the Detroit Free Press blared, “The First Blow Struck!”
The story gleefully related how Charles Hewitt, a magistrate of Michi-
gan, had issued warrants for the apprehension of the survey party “and
other persons engaged in violating the laws of the territory.” Continuing
its fanfare, the Free Press reported, “The warrants were given to the
sheriff of Lenawee, who summoned a posse of 30 or 40 respectable per-
sons of that county. On arriving near the house of Phillips, seven miles
within the Michigan line, they found nine or ten armed men, ascer-
tained to be a portion of the Ohio party and demanded their surrender,
which the latter refused to do.” The newspaper account has McNair’s
men, undaunted, “pressing hard upon their Ohio neighbors and, in obe-
dience to orders, firing over their heads—a maneuver which instantly
caused them to take to their heels.” The account reports, “They were,
however, chased by the Michigamians, and captured.”

Not surprisingly, the Columbus Hemisphere saw things in a different
light. As reprinted in the National Intelligencer of May 12, 1835, the
Hemisphere’s story told of how General Brown “made an attack upon the commissioners and their party who were stopped during the Sabbath with some private families.” The report continued, “Brown and some 80 armed men made captive nine of our Ohio corps. Governor Lucas postpones further active measures for 2–3 days. General Andy Jackson [President Jackson] will veto the proceedings of the Hotspur of Michigan.” The Hotspur mentioned in the report is Stevens T. Mason, who, in his supposed youthful impetuousness, recalled Shakespeare’s character known by that name.

As for the foot soldier veteran Benjamin Baxter, the whole experience at Phillips Corners was a bit of a lark. Some of the men, he says, had not yet arrived at the enemy camp but were “rapidly approaching the forest.” Confused by the sound of musket fire reverberating through the tall trees, Baxter stopped for a minute “to consider,” he said, “how I could best find out which side I was on.” He then “started for the battlefield very excited and nearly on the run.” Baxter recalled that about twelve of the invaders were taken and as many got away, “running some 15 or 20 miles to Maumee, where they arrived in the night, very peculiarly and lightly clad, it is said, by reason of the prickly ash and blackberry bushes through which lay their line of retreat.” Many years later, Baxter would describe “thrilling events and hairsbreadth escapes” of the Toledo War.12

Today, Phillips Corners is a peaceful place. A battered barn sits on the site where the men of Michigan surprised the Ohioans resting on the Lord’s day. The woods that echoed with musketry are long gone. Flat farm country dotted with grain elevators and silos marks the scene. A historical marker fourteen miles south of Adrian, Michigan, one mile south of the Michigan-Ohio line, awaits the curious traveler through these less-traveled byways. One side of the marker, titled “The Ohio Michigan Boundary War,” reads:

The Northwest Ordinance of 1787 defined the boundary of the northern and southern tier of states to be carved out of the Northwest Territory, as a line drawn east from the southernmost tip of Lake Michigan until it intersects Lake Erie. Controversy over the exact location of that line led to the 1834–1837 boundary dispute between the State of Ohio and Michigan Territory. Passions ran high as everyone on both sides of the boundary knew that a great port city would emerge in the disputed territory. President Andrew Jackson settled the dispute in 1836 when he signed an act that
recognized the current border between Ohio and Michigan, giving Michigan 9,000 square miles of Upper Peninsula land and awarding the disputed strip of approximately 470 square miles to Ohio. Michigan then joined the nation as a state the following year.

The side of the marker facing southward, toward Ohio, reads:

The Battle of Phillips Corners took place on April 26, 1835, and is sometimes referred to as the Toledo War. The altercation began when Ohio Governor Robert Lucas sent a survey party to re-mark the 1817 William Harris survey line, located on land claimed by Michigan Territory. When the survey party stopped to rest on land owned by Colonel Eli Phillips of the Michigan Militia, Under-Sheriff William McNair formed a posse of local deputies. Acting under authority of Michigan Territory Governor Stevens Mason, McNair and his force attempted to arrest the survey party for illegal trespass on Michigan Territory. The three Ohio Boundary Commissioners escaped accompanied by Colonel Sebried Dodge of the Ohio Corps. of Engineers and Pennsylvania & Ohio Canal
surveyor and engineer. Shots were fired in the direction of the surveyors, but no one was killed or wounded; however, nine members of the armed party were arrested.

The Phillips Corners site marker, at the intersection of Ohio Route 109 and Route 120, was erected in 2002 by the Ohio Historical Society, working with the Ohio Bicentennial Commission and the Fulton County Historical Society. There is no mention of Ohio’s vigorous insistence that Michigan be blocked from statehood until it had yielded the Toledo Strip, despite having strong legal claim to the territory. Ohioans may credit President Jackson with “settling the dispute,” but Old Hickory tried to take a hands-off approach. Also, the altercation did not really begin when Governor Lucas sent his survey party to re-mark the line but when his state slipped a proviso into its constitution that claimed ownership of the mouth of Maumee Bay for Ohio. History records that the Battle of Phillips Corners was the first battle in the Toledo War. The next six months would provide for, if not rattling good history, at least entertaining reading.