The Court Archive:
Border Battles

John A. Lupton
© Illinois Supreme Court Historic Preservation Commission
May 2025

Several of Illinois's borders are defined by major waterways. The Mississippi River forms the entire western border, the Ohio River and Wabash River make up the southeastern boundary, while Lake Michigan marks the northeastern boundary. Arbitrary lines on the east and north complete the state lines. Similar to property lines between neighbors, state borders are not always precise, and disputes sometimes arise to determine the exact boundaries.

Originally, Illinois's northern boundary was intended to be a horizontal line running west from the southern tip of Lake Michigan. However, Nathaniel Pope, the Illinois Territory's delegate to Congress engineered moving the line 31 miles to the north, allowing 14 modern-day counties—including the future city of Chicago—into Illinois rather than Wisconsin. While no lawsuits arose from this, in 1840, residents of Rockford unsuccessfully petitioned to secede from Illinois to join Wisconsin.

The borders with Missouri and Iowa were established by Congress as following the "middle of the main channel" of the Mississippi River. One of the first legal cases interpreting this vague terminology was *Buttenuth v. St. Louis Bridge Co.,* 123 Ill. 535 (1888). The court acknowledged that rivers shift both gradually and suddenly. If the change occurs gradually, then the Court ruled the boundary follows the river's new path, but if the change occurs abruptly or abandons the river's main channel, the boundary remains in the middle of the original riverbed." This explains why the current village of Kaskaskia lies on the west side of the Mississippi River but remains part of Illinois. The *Buttenuth* precedent was reaffirmed with regards to the State of Iowa in *Keokuk & Hamilton Bridge Co. v. People*, 145 Ill. 596 (1893). Both of these cases concerned how much of a bridge spanning the Mississippi River was taxable by each state.

Perhaps the most contentious boundary issue was between Kentucky and Illinois. Kentucky has long claimed the entire Ohio River as part of its territory arguing that its boundary extends to the northern shore. Disputes with Ohio and Indiana festered until the U.S. Supreme Court determined the border was defined by the Ohio River's position in 1792, when Kentucky joined the Union. In Illinois, the question surfaced in a case concerning workmen's compensation. *Joyce-Watkins Co. v. Industrial Commission*, 325 Ill. 378 (1927) noted that no formal

commission had ever established the boundary and concluded that the boundary was the northern "low-water mark" of the Ohio River.

The issue was finally resolved by the U.S. Supreme Court in *Illinois v. Kentucky*, 500 U.S. 380 (1991). Justice David Souter accepted the special master's report in favor of Illinois, writing that the border was the "low water mark on the northerly side of the Ohio River as it existed in the year 1792," rather than the river's northerly low water mark "as it exists from time to time," which was Kentucky's position. The Court also noted that identical rulings had already settled the matter between Kentucky and Ohio and Indiana, and those should apply to Illinois as well.