

CIVIL SUIT NUMBER 198,375
DIVISION "G"

RAPIDES PARISH POLICE JURY NINTH JUDICIAL DISTRICT COURT
VERSUS PARISH OF RAPIDES
GRANT PARISH POLICE JURY STATE OF LOUISIANA

REASONS FOR JUDGMENT

This litigation between The Grant Parish Police Jury (Grant Parish) and The Rapides Parish Police Jury (Rapides Parish) involves a disagreement over the boundary between the two parishes. Grant Parish contends that the boundary is in dispute, while Rapides Parish contends that the boundary is and has been established for more than fifty (50) years. Rapides Parish brought this action when Grant Parish instituted proceedings under LSA-R.S. 50:221, and sought to establish the parish boundary southward, into an area that Rapides Parish claims as its own. The Town of Ball, Louisiana intervened in this litigation, and adopted a position quite similar to that of Rapides Parish. The trial of this matter was held November 12, 2002 through November 27, 2002. All parties filed post-trial memorandums and the court began its review in March 2003 even though all trial exhibits were not submitted until March 5, 2004. Thus, the court has deliberated on this matter for approximately one year prior to publishing these reasons for judgment. The period that the matter has been under advisement is not the typical period that this court takes in considering a case, but in fairness to the issues presented herein this case is anything but typical.

Historical Summary

The Louisiana Legislature on March 4, 1869 by Act 82 created Grant Parish. The newly created parish was formed from parts of Rapides Parish and Winn Parish. The language of Act 82 describes the boundaries of Grant Parish as follows:

Commencing at a point on Red River where the Daro empties into said river, and thence running east to the point where Little river empties into Catahoula Lake; thence up Little river to the junction of the Castor and Duddemonia, thence west on the southern boundary of the parish of Winn to the range line between ranges numbers two and three west, thence south on said range line to the township line between townships numbers eight and nine north, thence west on said township line to where said line crosses the Rigolet de Bon Dieu; thence down said Rigolet de Bon Dieu to the mouth of Cane River, thence down Red river to the point of starting, the mouth of the Daro.

According to the report of Thomas Howell, Ph.D., the head of the history department at Louisiana College, at the time that Grant Parish was created, the original idea of prominent local citizens was to create a new parish out of south Winn, east Catahoula, and north Rapides Parishes. This new parish was to be called Red River Parish and the courthouse was to be located in the Town of Montgomery. William Calhoun, a debt-laden local plantation owner and a member of the legislature, sabotaged this plan. Mr. Calhoun changed the original legal description of the new parish before it was accepted by the Louisiana legislature so that his plantation (now the Town of Colfax) would be the parish seat. Mr. Calhoun also changed the name of the new parish from Red River to Grant Parish.

Despite this rather unseemly beginning, there was no apparent dispute as to the location of the boundary between Rapides Parish and Grant Parish until 1997, when the Grant Parish Police Jury passed an ordinance pursuant to the provisions of LSA-R.S. 50:221, et. seq. "to ascertain and fix the boundary line which is common to both Grant and Rapides Parish." To that end, Grant Parish appointed Pan American Engineers ("PAE") to survey the common boundary line. Rapides Parish appointed Frank Willis to survey the common boundary line. The two surveyors were unable to agree on the manner of conducting the survey, and worked independently to survey the boundary dividing Grant Parish and Rapides Parish.

In December 1999, Grant Parish provided Rapides Parish with a copy of the Pan American Engineers' survey purporting to establish the boundary between Grant Parish and Rapides Parish in a location south of the line that had historically been observed as the boundary line. The boundary proposed by Grant Parish would move the east end of the boundary line south by over a mile, and the west end of the boundary line south by about 750 feet. This change would reallocate more than 12,000 acres consisting of schools, subdivisions, single family dwellings and commercial enterprises from Rapides Parish and place them in Grant Parish. Rapides Parish responded to Grant Parish's actions by filing the instant lawsuit. The Town of Ball intervened in the lawsuit because the actions being taken by Grant Parish threaten to move part of the town into Grant

Parish. A portion of the common boundary between the two parishes defines the corporate limits for the Town of Ball.

Procedural History

Rapides Parish filed suit on December 19, 1999. Grant Parish initially responded by excepting on the grounds that Rapides Parish was premature in filing its suit and had no right or cause of action to bring its suit as it had failed to follow the procedural requirements of LSA-R.S. 50:221 et seq. The court denied the motion finding that the suit was not premature and that the parties had satisfied the procedural requirements of the statute. The evidence presented at the hearing showed that the parties met to discuss Grant Parish's contention of a boundary dispute and agreed to disagree and determined that a conjoint survey was not feasible. Subsequent to this meeting, Grant Parish completed and filed its survey (December 8, 1999) and Rapides rejected it. A few days later Rapides Parish filed this suit. This court opined that the statutory provisions were satisfied as fully as possible under the facts as they existed and denied Grant Parish's exception. Appellant review affirmed the trial court's ruling.

In the initial stages of the proceedings in Rapides Parish, Grant Parish filed its own suit in district court in Grant attempting to gain venue in its own parish. The Third Circuit Court of Appeals dismissed the Grant Parish proceedings.

Turning back to the Rapides Parish proceedings, Grant Parish next sought the recusal of all judges of the Ninth Judicial District Court including the undersigned judge. Grant Parish alleged that the district judges of Rapides Parish as citizens and residents of the parish had an interest or the appearance of an interest in the cause, and therefore should be recused. Pursuant to LSA-C.C.P. Article 151(C), the trial court denied the motion without a hearing. The court's ruling on this issue was ultimately affirmed by the Louisiana Supreme Court.

Rapides Parish and Town of Ball filed a joint motion for summary judgment on the basis that Rapides Parish and Grant Parish certified, recognized and established the boundary between the two parishes pursuant to similar but separate resolutions passed in 1946. The motion was denied based upon excerpts of the deposition of Charles O. Slay, Jr., former Tax Assessor for Rapides Parish. Because the trial court is not allowed to consider the merits, make credibility determinations, evaluate testimony or weigh evidence in deciding whether or not to grant a motion for summary judgment, the trial court reasoned that the Slay deposition put material facts at issue.

In the preparation for the trial in November of 2002, the court conducted a status conference on August 2, 2002. At a previous status conference, the court advised the parties that a comprehensive scheduling order would be issued setting cutoff dates for discovery and requiring the preparation and exchange of comprehensive reports by all experts which reports must disclose all opinions and the basis for such opinions to be expressed at trial. (Pre-trial order initially issued January 7, 2002). At the August 2, 2002 conference, the court was informed that certain expert witnesses to be called by Grant Parish at trial had failed to comply with the court's order and had not submitted comprehensive reports regarding their opinions. Upon reviewing the expert reports submitted, the court found them to be blatantly in violation of the pre-trial orders. Therefore, the court ordered that those experts testimony at trial be limited to only the information contained in their reports. Grant Parish appealed the court's ruling. The Third Circuit Court of Appeal and the Louisiana Supreme Court both affirmed the trial court's ruling.

Shortly prior to the start of trial, Grant Parish discovered that its boundary survey (retracement survey) contained serious errors and prepared a revised survey. On the day of trial, Rapides Parish moved to exclude the testimony of Grant Parish's land survey expert, Walter Robillard, and the revised survey prepared by Pan American Engineers. Rapides Parish objected to the revised survey on the grounds of timeliness as it was prepared outside the time constraints set by the scheduling order and because the retracement survey failed to follow proper professional methodology. Rapides Parish

argued that the revised survey was false and misleading in many respects. Following a two-day hearing, the court found that the survey was not prepared in accordance with accepted surveying standards and principals as provided by law and the profession, and granted Rapides Parish's motion to exclude the revised survey. Grant Parish was left with no survey to submit into evidence at the trial.

The evidentiary hearing also considered the testimony to be offered at trial by Walter Robillard, a land survey expert. Based upon his discovery deposition testimony, taken days before the start of the trial, the court concluded that Robillard's testimony was not reliable or credible and accordingly excluded his testimony at trial. Grant Parish was granted a twenty-four (24) hour stay to appeal the trial court's ruling on the exclusion of the revised survey and Robillard. The trial court's rulings on these issues were affirmed on review.

Following the procedural motions described above, the trial on the merits commenced with ten (10) days of testimony that concluded on November 26, 2002. The parties called or introduced through deposition or stipulation thirty (30) witnesses, the majority of which provided expert testimony. Two Hundred Thirty-five (235) exhibits were admitted into evidence.

The Legislative Act

The pertinent part of the legislative act that defines the common boundary between Grant Parish and Rapides Parish provides:

Commencing at a point on the Red River where the Daro empties into said river, and then running east to the point where Little River empties into Catahoula Lake; . . . thence down Red River to the point of starting, the mouth of the Daro.

The starting point of the court's analysis is the interpretation of this part of the act. The court is of the opinion that the clause italicized above is vague and ambiguous, both in its description of the western terminus and in its description of the eastern terminus of the parish boundary, making the boundary subject to differing interpretations. The language used in the description of the western terminus is ambiguous because the act does not describe whether the boundary line is to be determined in the middle of Bayou Daro or at

the bank line. The eastern terminus of the boundary is ambiguous because the description does not address whether the boundary line is to be determined in the middle of Catahoula Lake or at the bank line. Additionally, Catahoula Lake, we now know, is an ephemeral lake, and the statute does not define at what stage Catahoula Lake was intended to be at the time the boundary was established.

The legal description in Act 82 did not reference a map and all efforts to find any map or cartographic depiction indicating the intent of the legislature were without success. LSU Professor Ernest Easterly, Ph.D., attorney and geographer, testified of his exhaustive search of the Louisiana legislative records, the National Archives and other records in an effort to find references to a map or other evidence of the legislative intent. Frank Willis, land surveyor and civil engineer, testified to an exhaustive search of the records of Grant and Rapides Parishes, the LSU libraries, the Louisiana State Land Office and other potential sources for any evidence of a map that might have been attached to Act 82. Their search failed to produce any such evidence. In fact, their search also failed to locate the original petition submitted to the legislature. However, various newspaper articles published around the time of the creation of Grant Parish, together with the 1927 affidavit of Jonathan I. McCain, point to the establishment of Grant Parish as a local idea. The report of Dr. Thomas Howell on the history of the creation of Grant Parish supports the idea that local individuals established the line for local purposes, political, economic, and/or personal. Additionally, since the parties involved were local, almost certainly with continuing political ambitions, Dr. Howell opined that the parties would be more likely to draw a line that would cause as little disruption and local discontent as possible. Splitting settled areas where property was already in private hands would not likely please the owners. Lastly, Dr. Howell opined that it is more likely than not that William Calhoun (and his friend Governor Warmouth) had reason to make the new parish exclusive rather than inclusive. As a result, Calhoun would have been less likely to choose a line with Rapides Parish that would have included in Grant Parish a number of additional property owners at least some of who would be less likely to oppose anything Calhoun wanted. To support this idea, Dr. Howell notes that the new parish was significantly smaller than the originally proposed "Red River" Parish. Not only was some of the Winn Parish

testimony left off but also all of the Catahoula Parish territory was omitted. Whether the line with Rapides Parish was different between the "Red River" and the Calhoun proposals is unknown. However, Calhoun clearly intended to create in Grant Parish an entity that he could control politically.

Other than evidence of various newspaper articles and personal accounts supporting the idea that the establishment of Grant Parish was a local idea, there is virtually no evidence in the record of legislative intent. As noted above, the parties were unable to locate evidence that a map was attached to the original legislation and were, in fact, unable to locate the original petition submitted to the legislature. Evidence of the journals of the House and Senate of 1869 for the legislative history of Act. No. 82 was not submitted. From the scant evidence of legislative intent available for consideration, the court accepts the testimony of Dr. Thomas Howell, Ph.D. as summarized above, and concludes that the legislature would have been more likely to have intended to exclude territory from Grant Parish than to have included it.

In previous cases involving boundary disputes where the court is called upon to interpret a statute defining a parish boundary, the courts have looked to historical evidence in the form of maps drawn near the time of the creation of the new parish. While map compilers can not legally fix or establish any boundary other than that defined and called for by the act, the courts have given import to the maps drawn by the map makers of the time, stating "when they marked and fixed the line on these maps..., they must have had good reason to believe that they were doing what the Legislature intended them to do." St. Martin Parish Police Jury v. Iberville Parish Police Jury, 33 So.2d 671 (La. 1947). However, in the case at hand, the differing interpretations of the parish boundary line as depicted on maps created after 1869 and prior to 1940 support the idea that the language of the statute is ambiguous and caused map makers great difficulty in deciphering the legislative intent, especially as to the eastern terminus.

For example, in 1869, the cartographer Samuel Lockett, in his "First Report of Topographical Survey of Part of Louisiana" noted:

there seems to be an irreconcilable incongruity in the terms of the act defining the boundary of Grant parish. The southern boundary is described as a line running due east from the mouth of the Daro to the point where Little river runs into Catahoula lake. Now these two points are not on an east and west line, as may be seen by the inspection of any map of the State. As two points, however, determine the position of a straight line, independent of its direction, I have drawn the boundary connecting the two points.

The "State of Louisiana" (official map) by T.S. Hardee, prepared in 1871 depicts the starting point at the mouth of Bayou Daro, along the bank of the Red River. However, the map extends the Grant Parish boundary to the vicinity of where Bayou Flagon (not Little River) enters Catahoula Lake.

Frank Willis discovered a map depicting the parish line in dispute after much research and investigation in the files of the State Land Office in Baton Rouge. It was prepared by Captain R. W. Bringhurst who served as Rapides Parish Surveyor (and a civil engineer) before, during and after the creation of Grant Parish. According to testimony, this map was probably prepared before 1869, and updated sometime between 1871 and 1875 to add demographic data for the new shape of Rapides Parish and to add the parish line common to Rapides and Grant. Frank Willis testified that the Bringhurst map, although not a survey, was invaluable to his work in determining the location of the boundary in part because the Bringhurst map showed natural monuments of both the west and east end of the parish line as they existed around 1869 near the time of the creation of Grant Parish. Both Frank Willis and Ernest Easterly, III, expert geographer, testified that Captain Bringhurst, as a reputable parish surveyor for Rapides Parish both before and after the formation of Grant Parish, was probably the most competent contemporary cartographer for determining the parish boundary.

Although mapmakers of the era clearly differed in their interpretations of the boundary between Grant and Rapides Parish, there is no evidence that the parish governing bodies, public officials, or citizenry were in disagreement as to the location of the parish boundary. There is scant evidence in the record as to the actions of the various governing bodies up until the 1930's. Frank Willis notes in his report that at the time that Grant Parish was created, it did not have a police jury, parish surveyor, or any other legislative

or governmental body to make decisions. He opines that surveying issues involving the setting of the boundary between Rapides Parish and the newly formed Grant Parish would probably have been addressed by Bringhurst, the Rapides Parish Surveyor until the early 1900's. Although no evidence was introduced to support this position, Frank Willis states in his report that the Bringhurst map was used continuously by both Grant and Rapides Parishes until some time between 1930 and 1940, when the east end of the parish line shifted northerly about 1600 feet into Grant Parish.

There are other maps also filed in the record that demonstrate the difficulty that map makers had with the description of the Grant Parish boundary as described in Act 82 of the 1869 legislature.

Based upon the evidence presented at trial together with the court's own reading of the legislative act, the court is of the opinion that the Act is ambiguous as to both the eastern and western terminus points of the Rapides/Grant boundary line described therein. Accordingly, the court discusses the evidence as to the location of the eastern and western terminus points of the boundary line dividing Grant and Rapides Parishes.

Western Terminus Point of the Rapides/Grant Line

The west end of the Rapides and Grant Parish boundary is described two ways in the legislative act: 1) that "point on Red River where the Daro empties into said river" and 2) "thence down Red River to the point of starting, the mouth of the Daro." According to the testimony of Frank Willis, the point where Bayou Daro empties into Red River is the same as the location of the mouth of Bayou Daro. Frank Willis also testified that the location of the mouth of the Daro is obvious and accurately depicted on Bringhurst's map.

Mr. Willis testified at length about his extensive work to locate "the mouth of the Daro" as it existed in 1869. Because it was a contemporaneous document to the legislative act, he used the Bringhurst map of Rapides Parish as a starting point. Since the map is not a survey, it did not show actual measurements from section corners to the mouth. However, the map did detail two important features: 1) the Red River; and 2) the location of the mouth of Bayou Daro north of the northwest corner of Section 16. According to Willis, the Bringhurst map clearly demonstrated that the parish line was intended to terminate at the mouth of Bayou Daro, the point where Bayou Daro empties into Red River. This point is most accurately depicted as the point where the thread of Bayou Daro meets the mean low water line (the bed) of Red River. According to Willis, 1850 GLO field notes provide another clear interpretation of the mouth of Bayou Daro that coincide with Bringhurst's map, as do other contemporaneous depictions of the mouth of the Daro including Hardee's Map of 1871, Samuel Lockett's Map of 1871, land titles, and historical accounts.

Frank Willis testified that the Red River frequently changed course due to its frequent swift currents, combined with the easily erodible alluvial soil in the Red River flood plain. A Red River navigation project in the 1970's substantially reduced the shifting of the river channel; however, substantial movement of Red River at Bayou Daro occurred prior to that time. Mr. Willis used accurately scaled aerial photographs of Red River at Bayou Daro taken in 1938, 1966 and 2000, along with GPS ground control and advanced photogrammetric techniques to determine that between 1938 and 2000, the Red River moved more than 3000 feet and the mouth of Bayou Daro moved north as the river changed course.

The court heard the testimony of Dr. Paul Kemp, Ph. D., Associate Professor with the LSU School of the Coast and Environment. Dr. Kemp is a hydrologist by education and training. He was asked to study and determine the location of the mouth of Bayou Daro in 1863. Dr. Kemp testified regarding the water hydraulics and sedimentary formations of the alluvial environment. Bayou Daro is located in an alluvial system. Dr. Kemp was of the opinion that the Red River had moved in a northeast direction from its location in

1869. He testified that Bayou Daro is a stable stream or bayou and had not experienced the change in movement that the Red River had. Dr. Kemp's testimony substantiated Mr. Willis opinion that the Red River had moved in a northeast direction from its location in 1869.

Because the parish line does not move with the movement of the location of the mouth of Bayou Daro, Mr. Willis dedicated significant effort toward determining the location of the mouth of Bayou Daro, as it existed in 1869 at the time that Grant Parish was created. Two survey plats were used to best determine the precise location of Bayou Daro in 1869: 1) the GLO survey of 1850 and; 2) a survey map by James O'Shee, Deputy Parish Surveyor, in 1893. These two surveys show the mouth of Bayou Daro at different time periods. Mr. Willis testified that he applied the basic principle of river movement in the cut bank direction to locate the mouth of the bayou in 1869, somewhere between its location in 1850 and its location in 1893. Extensive movement of Red River near Bayou Daro washed away all of the natural and artificial monument physical evidence to which the two surveys could be correlated. Using aerial photographs dated 1938, 1966 and 2000, Mr. Willis located many natural monuments, most of which are also depicted on the GLO survey and the O'Shee survey. The movement of the mouth of the Daro due to the movement of the Red River is the only difference noted. Mr. Willis scaled and correlated the aerial photographs using a process called orthorectification and georeferencing. Mr. Willis tied all of his work to the Louisiana State Plane Coordinate System. Mr. Willis testified that the photographs are now related to each other and to the Louisiana State Plane Coordinate System to an accuracy of plus or minus 10 feet.

Additional work performed by Mr. Willis resulted in the determination of the coordinates of the northwest corner of Section 16 at the mouth of Bayou Daro and the riverbank as recorded by GLO in his 1850 survey of the Red River bank. With O'Shee's map showing the mouth of Bayou Daro and the north river bank in 1893, and the GLO showing the north bank of the river in 1850, Mr. Willis calculated the coordinates of both. With no evidence to the contrary, Mr. Willis testified that he assumed that the movement of the cut bank of Red River was even and consistent between 1850 and 1893. Mr. Willis

calculated the amount of cut bank movement to be expected in an average year, and then prorated the location of the riverbank and the mouth of Bayou Daro in 1869. He projected the thread of Bayou Daro to the prorated 1869 location of the bank of Red River and computed the Louisiana State Plane Coordinates of this location marking the west end of the parish line.

The evidence presented by the testimony of Mr. Willis and Dr. Kemp convinces the court that the western terminus of the boundary line dividing Grant and Rapides Parish as defined by the legislative act is that point where the thread of Bayou Daro meets the mean low water line of Red River. Simply stated that point is on the bank of Red River and not in the middle of Red River.

Eastern Terminus Point of the Rapides/Grant Line

Act 82 describes the east end of the boundary as “the point where Little River empties into Catahoula Lake.” It is the opinion of the court that this description of the boundary is susceptible of multiple interpretations, making the legislation ambiguous. In considering this part of the description, the court takes cognizance of the testimony of Dr. Ernest Easterly, III, LSU Professor and geographer, regarding the legislative definition of the eastern terminus. Dr. Easterly expressed the opinion that the Rapides/Grant Parish boundary where Little River empties into Catahoula Lake is an indefinite location reflecting a problematic legislative allocation that has never been effectively delimited. He observed that historic maps conflict in their renditions of the Grant/Rapides Parish boundary, reflecting confusion as to allocation (the political decision on the distribution of the territory between Grant and Rapides) and a likely misunderstanding as to the ephemeral nature of Catahoula Lake. For the additional reason that Catahoula Lake is an ephemeral lake, that is, temporary and generally formed during flood times, the description of the boundary provided by the legislative act is susceptible of multiple interpretations dependent upon whether the boundary is determined when the level of Catahoula Lake is high, medium or low. Accordingly, it is the view of the court that the

legislative intent in defining the eastern terminus as the point where Little River empties into Catahoula Lake is subject to speculation and doubt.

Dr. Easterly demonstrated his vast knowledge of Catahoula Lake, its unique characteristics and its role as a political boundary. He had previously studied Catahoula Lake and written a scholarly paper on the lake's ephemeral nature. Dr. Easterly studied all of the significant maps depicting the area of Little River and Catahoula Lake. He testified that Little River passes through the Catahoula Lake Basin, becoming a mere channel within the lake when the basin fills with water. He further observed that Little River formed an actively accreting lacustrine delta, building upon the bed of Catahoula Lake. This delta has extended along the course of Little River continuously forward over the basin floor, thereby advancing farther into the lake since 1812, and changing surface locations since the time of mid-nineteenth century surveys. Catahoula Lake is an ephemeral lake that expands to fill its basin on an irregular basis, expanding to an approximate ordinary high water level near the 36-foot contour. Dr. Easterly concluded that Little River, therefore, might be considered to "empty" into Catahoula Lake at about the 36-foot contour. He expressed the opinion that the "chicken neck" structure shown in the various maps is located within the bed of the lake. Dr. Easterly noted that many of these early geographers did not understand the uniqueness of an ephemeral lake such as Catahoula and did not understand its changing nature. Dr. Easterly further testified that in his expert opinion that Little River empties into Catahoula Lake at its high water stage of 36 feet contour.

Frank Willis provided important testimony concerning his work to determine the location where Little River empties into Catahoula Lake, the natural monument defining the east end of the boundary as described in Act 82. Willis referenced the Bringhurst map in forming his opinion. Willis testified that the Bringhurst map provided some important details about this natural monument. Bringhurst terminated the parish line on the west bank of Little River, also referred to as the right descending bank. Mr. Willis testified that by terminating the lines on the banks, Bringhurst was utilizing a common mapping practice and giving cartographic priority to the water bodies. Bringhurst's depiction of

the east end point of the common parish boundary is significant in that it also depicts the Little River delta extending out into Catahoula Lake when the lake is at a stage below the ordinary high water line. Further, the Bringhurst map showed this natural monument as it existed near the time of the creation of Grant Parish.

As he did on the west end of the boundary, Mr. Willis then attempted to locate the natural monument depicted on Bringhurst's map on the ground. He utilized the universal premise and definition of the point where a river empties into a lake- the point where the thread of the river meets the bed of the lake. The bed of the lake is defined as all that area below the ordinary high water mark. Miami Corp. v. State, 173 So.2d 315 (La. 1936). Mr. Willis testified in great detail about how Rapides Parish established, through scientific analysis and aging of cypress trees that Little River has not moved in its approach to Catahoula Lake since prior to 1869, the year that Grant Parish was created. Rapides Parish introduced the report of Dr. Patricia Joy Young, PhD, a dendroecologist, who obtained core sample of the cypress trees along Little River in the area of Catahoula Lake. (RPPJ 174) Dr. Young's report admitted into evidence demonstrated cypress trees having been in existence several hundred years and well before the creation of Grant Parish. The findings of Dr. Young were corroborated by the testimony of Lewis Peters, a prominent forester. The significance of the evidence presented by Dr. Young, Peters and Willis contradicts the GLO field notes referencing the location of Little River. It is these field notes together with the work of the GLO surveyor that Grant Parish has relied upon in basing its argument as to the location of the east point of the boundary.

Mr. Willis also testified regarding the establishment of the shoreline of Catahoula Lake at its juncture with Little River. The 1942 study of Drs. Russell and Brown established that in 1812, the year in which Louisiana gained statehood, the shoreline of Catahoula Lake was the 36-foot contour. A survey by Heard and Daigre for the Carter Oil Company in 1942 plotted the 36-foot contour. The evidence established that the State of Louisiana recognizes the shore as the 36- foot contour. Mr. Willis testified that he looked for the point where Little River met the 36-foot contour of Catahoula Lake. Mr. Willis then surveyed the point at a time when the lake was held at 36 feet mean sea level. Willis

conducted extensive field investigations to document and personally examine the physical evidence on the ground described by Russell and Brown to evidence the ordinary high water line or shore of Catahoula Lake. Numerous photographs and videos of his observations were introduced in evidence at the trial. Willis testified that the line depicted by Bringhurst correlated closely to the 36 foot contour as reported by Russell and Brown, as surveyed by Daigre and Heard for Carter Oil, and as personally observed and located by Mr. Willis in the field. Paul Kemp, an expert hydrologist, corroborated Mr. Willis' testimony. Mr. Willis then surveyed the point where the tread of Little River intersects with the shore of Catahoula Lake at 36 feet mean sea level.

Willis testified to his opinions and findings regarding the extensive work he performed to determine the east end of the boundary, and he summarized them in his written report also submitted into evidence, as follows:

1. The tip of the natural levees corresponds with about 34 feet and matches the sudden narrowing of the delta as shown on the 1994 quad sheet.
2. Meander lines are never considered to be the shore of the lake. The lake itself is the natural monument, which takes precedence over the meander lines.
3. Bringhurst's determination of the point where Little River emptied into Catahoula Lake is consistent with and confirmed by Russell and Brown and the Carter Oil Company survey by Heard and Daigre.
4. History of Grant and Rapides between 1869 and 1930 shows that the Bringhurst line was used extensively as the parish boundary. Hardee did not use the line. Hardee's Map erroneously portrayed the point where Bayou Flaggon emptied into Catahoula Lake, not the point where Little River emptied into Catahoula Lake.
5. The GLO survey was done 30 years prior to the creation of Grant Parish in 1869. Bringhurst documented that changes had occurred on the low water natural levee of Little River and documented them on his map circa 1969.
6. A readily visible correlation of forest banding and the shore line of lakes exists on inland natural lakes throughout non-coastal Louisiana.
7. Russell and Brown established the shoreline of Catahoula Lake at 36 feet above mean sea level. Other scientists agree with this elevation. This elevation has been used by the State of Louisiana and all other parties interested in Catahoula Lake since 1942. Wildlife and Fisheries lake boundary signs follow the 36-foot contour. The cypress fringe is clearly visible along the route of the signs and the 36-foot contour.
8. The GLO survey was not referenced in the legal description in Act 82 that created Grant Parish and no proof is found that a map was attached.

9. The Bringhurst map shows the most authoritative, contemporaneous, accurate, and locally accepted definition of the point where Little River emptied into Catahoula Lake in 1869 when Grant Parish was created.

Grant Parish contends that a proper interpretation by the court of the point where Little River empties into Catahoula Lake forming the eastern terminus of the common boundary line is found in the GLO Township Plat of May 18, 1842. It is Grant's contention that the referenced map depicts a feature or structure referred to as the "chicken neck" and labels it as Little River. Grant Parish further contends that this is the point where Little River empties into Catahoula Lake, thus constituting the eastern terminus. This point is substantially south of the terminus point shown on the Bringhurst map. Grant Parish argues that surely the legislature was familiar with the GLO map and that this map must have been part of the legislative consideration in creating Grant Parish. In support of this position, Grant Parish introduced five (5) land patents granted by the State of Louisiana in 1896 and 1897 situated in the area of the eastern end of the boundary line. (GPPJ 51) On cross-examination, Mr. Willis was asked to locate these five tracts on a map. (GPPJ 18) Four of the tracts were patented in Grant Parish and one was patented in Rapides Parish. The properties patented in Grant Parish were all situated south of Little River and the eastern point of the boundary line depicted on the Bringhurst map and the Line of Acceptance depicted on Joint Exhibit J-1. Mr. Willis was also questioned on cross-examination regarding the "chicken neck" feature shown on GPPJ 18 and the Bringhurst map. Mr. Willis testified that the maps shown to him by Grant Parish do not accurately depict the proper location of the chicken neck structure, and thus, they are not suitable for purposes of comparison. Mr. Willis also testified as to the unreliability of the various GLO maps as they pertain to the eastern end of the disputed line prepared in the early 1800's. He noted the differences in the shoreline of Catahoula Lake reflected in these maps. Mr. Willis attributed those differences to the ephemeral nature of the lake which characteristics were unknown to the GLO surveyors.

The court is mindful of the fact that the ephemeral characteristics of Catahoula Lake were not known nor understood in 1869 to anyone, perhaps except Captain Bringhurst, especially the members of the legislature or the GLO surveyors. As the evidence has shown the ephemeral nature of Catahoula Lake was not a recognized fact until Drs.

Russell and Brown completed and published their study in the early 1940's. The court is also cognizant that Act 82 forming Grant Parish was passed in March 1869 when Catahoula Lake is normally at its high water stage. Additionally, the court in reviewing the evidence, finds no convincing proof that the legislature considered the GLO maps in creating Grant Parish. For these reasons, the court finds Grant Parish's arguments non-persuasive that the eastern terminus (where Little River empties into Catahoula Lake) is located at or near the "chicken neck" structure.

Based upon the evidence presented at the trial, the Court is of the opinion that the boundary line, including the western and eastern terminus points, originally depicted by Captain R. W. Bringhurst and surveyed by Frank Willis makes the most reasonable argument to the Court that this is the boundary line intended by the language of Act 82 of the Louisiana Legislature in 1869.

Line of Acceptance

Grant Parish contends that the court's analysis of the location of the boundary between Grant Parish and Rapides Parish ends here. However, Rapides Parish and the Town of Ball argue that the court's analysis must include consideration of the boundary line that has been recognized and accepted by the governing authorities of both Rapides and Grant Parishes as well as by local, state and federal officials and entities and the citizenry for more than the last fifty (50) years. Rapides Parish and the Town of Ball argue that this accepted and recognized line represents either a line of acquiescence or the parish governing authorities' joint interpretation of Act 82 of the 1869 Legislature.

The shifted parish line has been portrayed on parish maps prepared by the Louisiana Department of Highways and the United States Geological Survey (USGS) quadrangle maps since about 1940. This line has been used continuously by both parishes and virtually all governmental agencies from about 1940 to the present. Although some (but not all) USGS quadrangle maps (quad sheets) label the line as *indefinite*, no quad sheets labeled the line as *disputed*. Frank Willis testified that the USGS places the word *indefinite* on the quad sheets when it is not positive about the placement of the line

because it does not follow section lines or other precise markers identified by USGS cartographers. According to Mr. Willis, the word *indefinite* appears on many parish boundaries that are not contested or disputed. As mentioned earlier in the opinion, there is no evidence of a boundary dispute between the parishes until 1997.

The uncontradicted evidence introduced at trial established that on May 11, 1946, the Grant Parish Police Jury unanimously passed a resolution certifying the boundary of Grant Parish as portrayed on Louisiana Department of Highway Maps. Three days later, the Rapides Parish Police Jury unanimously passed a similar resolution. The maps certified by these resolutions are the same as the boundary line known as the "Line of Acceptance" within reasonable cartographic standards.

It is argued by Rapides Parish and Town of Ball that these resolutions evidence the adoption by the two parishes of a common line of boundary that has been used by the citizenry of the state without interruption from 1946 the time of their adoption until Grant Parish raised the issue in 1997. This line of boundary shown on the Louisiana Department of Highway maps referenced in the resolutions coincides with the U.S. Government Quadrangle maps that show the parish boundary and is northerly of the line described in Act 82 of 1869. (Willis report).



The resolution passed by the Grant Parish Police Jury on May 11, 1946 reads as follows:

A letter from Mr D.Y.Smith, Director of Highways was read to the Jury regarding the Parish and Ward lines. The Jury certified as to the correctness of the Parish lines as shown on the map but corrected the Ward lines between Wards two and Eight. as the L & A Railway is not the dividing line between these two Wards That the dividing line between Ward Two and Eight begins at a point on the South line of Ward Three, at the NW corner of Sect. 3 and the NE corner of Sect. 4 Twp. 6 N. R 1 E and run South three miles to the corner of Sections 15, 16, 21 and 22 thence West to the L & A Ry thence in a Southeasterly direction to the Rapides Parish Line. All these ~~other~~ other Ward lines being correct as outlined on the map. On motion Mr Brown seconded by Mr G.A.Fletcher and unanimously carried that the Secretary make the proper correction on the map furnished by the Highway Department, Notify the Director of Highways and certify the correct lines and return the map to the Department of Highways, Baton Rouge, Louisiana.

The Grant Parish Police Jury noted that the boundary between Wards two (2) and eight (8) was not accurately reflected on the official parish map and therefore requested that the State make the requested Ward line change. The change requested by official act of the Grant Parish Police Jury regarding the Ward lines is depicted on the official map of Grant Parish in 1947. The Court notes that there was no discussion or debate reflecting a boundary dispute with Rapides Parish. To the contrary, the police jurors unanimously certified the parish boundary line as reflected on the map to be correct.

The resolution passed by the Rapides Parish Police Jury three days later reads as follows:

MAY 14th 1946

On motion Mr. Ward, seconded by Mr. Atee:

RESOLUTION BY THE
PARISH & WARD LINES

Be it resolved by the Rapides Parish Police Jury in regular session legally convened that the Parish lines and ward lines as shown on maps of the Department of Highways, a copy of which was checked by the Rapides Parish Police Jury, be and the same are hereby declared established.

Roll call on the above was as follows:

Present: Messrs, James, Gremillion, Harris, Rush, Ward, Boyd, Johnson, Brown, Sasser, Atee, Daniel.
Absent: None. The resolution was declared adopted.

There being no further business to come before said meeting was moved duly seconded and carried that the meeting adjourn.

G. A. Fletcher
PRESIDENT.

J. D. ...
SECRETARY.

Again, the Court notes that the resolution was unanimously passed and that there was no discussion or debate to indicate that there was a dispute as to the parish boundary line.

In February of 1947, the Grant Parish Police Jury created the Grant Parish Planning Board. The board was comprised of Grant Parish citizens described as "public spirited." The Grant Parish Planning Board worked to "present an accurate, complete picture of Grant Parish" for the purposes of planning for the future development of Grant Parish. The results of the work of this Planning Board were compiled into hard-back book entitled *Grant Parish Resources and Facilities Survey by the Grant Parish Planning Board*. At about the same time, Rapides Parish created a similar book. Both books contain maps. According to the testimony of Frank Willis, the map of Grant Parish depicting the boundary line and the map of Rapides Parish depicting the boundary line match one another within reasonable cartographic standards. The Grant Parish Planning Board used quadrangle maps and the Louisiana Department of Highways map in preparation of its report. Neither book makes reference to any dispute or uncertainty as to the location of the boundary between Rapides and Grant Parish.

The evidence presented at trial overwhelmingly establishes that this boundary line (the "Line of Acceptance") has been recognized and accepted by the governing authorities of both Rapides and Grant Parishes as well as by local, state and federal officials and entities and the citizens of both parishes for more than the last fifty (50) years.

A number of witnesses provided testimony in the form of stipulations including Rocky Willson, Assistant District Attorney for Rapides Parish. Mr. Willson testified that the Rapides Parish District Attorney's Office has never had a disagreement with the Grant Parish District Attorney's Office regarding the correct location of the boundary line. He further testified that the Rapides Parish District Attorney's Office has always followed the territorial boundaries reflected on the official maps of Rapides Parish in its exercise of jurisdiction over criminal prosecutions. Similarly, William Earl Hilton, Sheriff of Rapides Parish, testified that his office utilizes the maps reflecting the boundary of acceptance for all criminal investigations and other functions of his office. He further

testified that there has never been a disagreement between his office and the Grant Parish Sheriff's Office regarding the location of the Rapides and Grant Parish boundary. The Court reviewed uncontradicted testimony from many other Rapides Parish officials, including Joanel Wilson, Rapides Parish Registrar of Voters. She testified that she ultimately determines which individuals are allowed to vote in Rapides Parish. She is responsible for the oversight and enforcement of the Federal Voting Rights Act and works closely with the United States Department of Justice. She uses state and federal maps reflecting the current boundary line in the performance of her job duties.

Grant Parish stipulated to the testimony of Rapides Parish Tax Assessor, Ralph Gill. Mr. Gill has been employed by the Rapides Parish Tax Assessor's Office since 1969. He testified that the Rapides Parish Assessment Plats are identical to the Grant Parish Tax Assessor's Plats. These plats were introduced into evidence. He further testified that all Rapides and Grant Assessment Maps reflect the line that has come to be known as the "Line of Acceptance." He testified that tax assessments on property located in the area of the Grant Parish-Rapides Parish boundary have always gone smoothly and have followed the commonly accepted USGS line. Mr. Gill testified that if the boundary line as currently recognized is shifted south to the Bringhurst line, Rapides Parish would lose approximately 365 homes and 3,000 acres of land.

The stipulated testimony of Deputy Tax Assessor for Rapides Parish, Luke L'Heureux, was also admitted into evidence. Mr. L'Heureux has served as the Deputy Tax Assessor since 1973. Mr. L'Heureux's duties include drawing Parish Assessment Maps. He identified the maps used by the Rapides Parish Tax Assessor's Office. Mr. L'Heureux testified that he has examined the Grant Parish Tax Assessor's maps and they are identical to the maps utilized by the Rapides Parish Tax Assessor's Office. He testified that since at least the 1950's, the Rapides Parish Tax Assessor's Office has utilized what has come to be known as the "Line of Acceptance"

Angie Richmond, Secretary to the Rapides Parish Police Jury, testified by stipulation that the Rapides Parish Police Jury certified the boundary in 1946. She testified that the

Rapides Parish Police Jury has, since 1946, always utilized the recognized boundary for all purposes. She also testified that the USGS line is used to define the boundary of many parish fire and taxing districts.

The Court also reviewed testimony about the federal government's use of the USGS line (the currently recognized boundary line). Chico Maldonado, a federal law enforcement officer employed by the United States of America, testified that his jurisdiction includes Kisatchie National Forest, parts of which are located on both sides of the Grant-Rapides line as it is currently recognized. In determining in which parish a crime occurs, he is instructed to use the most current United States Geological Survey Quad Sheets. He testified that in the performance of his duties, he has never encountered any issue or dispute regarding the current location of the boundary.

Michael T. Johnson, attorney for the Rapides Parish School Board in the "Valley vs. Rapides Parish School Board" desegregation case, testified that the federal courts have recognized the current boundary line for their purposes, including the desegregation of Rapides Parish schools.

The Town of Ball introduced the deposition of Jimmy Williams. Mr. Williams works for Kisatchie Delta Regional Planning and Development District, Inc. Mr. Williams testified that the Grant Parish Police Jury hired him in 2000 to conduct its reapportionment work. Mr. Williams testified that he based his work on the boundaries reflected on the USGS maps and the official maps of Grant Parish. He used the same parish line used by Grant Parish in its 1990 reapportionment work. Once the reapportionment was accomplished, the maps were sent to the United States Department of Justice and the Louisiana State Legislature. He further testified that the United States Census Bureau utilizes the boundary reflected on USGS maps and official maps of Grant Parish to determine the number of citizens living in the parish. Mr. Williams utilized United States Census Bureau data extensively in his reapportionment work. The maps utilized by Mr. Williams in his work on behalf of Grant Parish have been confirmed by Frank Willis to accurately reflect the Line of Acceptance.

The Court heard testimony from John Miller, Director of the Rapides Area Planning Commission. Mr. Miller testified that his agency has provided maps to many other agencies that rely on the maps, including the Rapides Tax Assessor's Office, the U.S. Census Bureau, Acadian Ambulance, FEMA, 911 Communications Center, District Courts, and more. He produced the Rapides Parish Area Planning Commission Base Map prepared by the Louisiana Department of Transportation and Development in cooperation with the U.S. Department of Transportation/Federal Highway Administration. The depiction of the boundary on this map is consistent with the "Line of Acceptance." He was not aware of any dispute as to the location of the boundary between Rapides and Grant Parish during his 27 years with the planning commission.

In addition to the testimony summarized above, the court reviewed similar testimony from Wayne Marchand, District Administrator, District A, Louisiana Department of Transportation and Development, Roger Corley, Command Sergeant Major with the Louisiana National Guard, T. J. Hollingsworth, Chairman of the Board of Waterworks District #3 and former Mayor of Ball, Cecil Raggio, Public Works Director for the Rapides Parish Police Jury, and Mike Slocum, Commander with the Rapides Parish Sheriff's Office.

Similarly, the court reviewed testimony from Grant Parish officials that confirms the use of the "Line of Acceptance." Grant Parish Superintendent of Schools Bob McLamore admitted in deposition testimony that the Grant Parish School Board utilizes the "official map of Grant Parish," that is, the USGS map or the boundary line depicting the Line of Acceptance. Mr. McLamore confirmed that the federal court based its desegregation order for Grant Parish schools on the boundary line as it is currently recognized. Further, all attendance zones and school taxing districts are based on the Line of Acceptance. Grant Parish Registrar of Voters Shirley Chelette testified by deposition as well. Pursuant to a subpoena duces tecum, she produced the official map of Grant Parish used by her office. The official map, attached to her deposition, establishes that the boundary used by the Grant Parish Registrar of Voters in determining whether a voter lives in Grant or

Rapides Parish reflects use of the boundary certified by the police juries in 1946, that is, the Line of Acceptance.

Roy Hebron, Mayor of Ball, testified that he has been a resident of the Ball community dating back to its incorporation in 1972. The description of the town in the articles of incorporation begins at a point of the line dividing the two parishes. Prior to becoming mayor in 1987, Mayor Hebron served as an alderman starting in 1986. During the time that he has served as alderman and mayor, the town has constructed and installed utilities without any mention of a boundary dispute. Mayor Hebron testified that the Town of Ball has employed Pan American Engineers since 1997 and on no occasion has Mr. David or any member of his engineering firm advised that there was any question regarding the boundary of the parish line that is the northern boundary of the town. He further noted that the town has obtained federal grants for sewer service and the issue of a boundary dispute has not come up. Mayor Hebron testified that should the boundary be moved southward at all, the Town of Ball would be financially (as well as geographically) devastated. The Town of Ball was founded in 1972 based in part on the "Line of Acceptance" recognized by all governments at that time. The Town's infrastructure was built northward to the "Line of Acceptance." Should the boundary be moved to the "Bringhurst Line," the Town will lose a substantial part of its tax base.

Assistant Superintendent of Rapides Parish Schools, Lyle Hutchinson, testified that the Rapides Parish School Board uses the Line of Acceptance as depicted on USGS maps as the official boundary between Rapides and Grant Parishes, as does the U.S. District Court that oversees the Rapides Parish school system. Mr. Hutchinson testified that both Rapides Parish and Grant Parish use the "Line of Acceptance" for attendance purposes, school funding, and desegregation. All of the schools taxing districts are based upon the boundary as it is currently recognized. Mr. Hutchinson further testified that several of the schools near the recognized boundary are operating on "shoestring" budgets and any movement of the line southward, even to the "Bringhurst Line" would devastate those schools. He testified that any movement of the boundary line southward would have a devastating impact on the Rapides Parish School System. According to Mr. Hutchinson,

a movement of the boundary southward to the "Bringhurst Line" would force more than 500 children into the Grant Parish School System. Mr. Hutchinson testified that the Rapides Parish School Board has never had a dispute or disagreement with the Grant Parish School Board regarding the location of the parish boundary as it relates to taxing or school attendance.

Local citizens testified by stipulation or live at trial. Charles W. Smith, Jr., a Rapides Parish resident, was born in 1935 and he has lived within one-quarter mile of the "Line of Acceptance" most of his life. Mr. Smith testified that he and his family have always treated the commonly accepted boundary line as the legal boundary. Mr. Smith further testified that survey markers are on his property in the area of the present boundary line and have been there since 1972. The Smith family has always voted in Rapides Parish and this property is assessed in Rapides Parish. Former Ball Mayor Larry Mahoney and his wife, Florence, testified at the trial. Florence Mahoney has lived within a few hundred feet of the "Line of Acceptance" since the 1930's. The Mahoney property is located only a few feet South of the Line of Acceptance. The Mahoneys vote in Rapides Parish and have homestead in Rapides Parish. Their children attended Rapides Parish Schools. Another former Mayor of Ball, Clyde Moore, testified that he has lived in the Ball community since 1938. Mr. Moore participated in the incorporation of Ball and testified that the northern line of the Town of Ball was the parish line. That line is the common boundary line identified as the Line of Acceptance. Charles Gintz is a long-time resident of this area. He testified that he has lived on Watson Road in Ball from 1945 to 1955 and again from 1969 to the present. The Gintz property is located in Rapides Parish a few feet south of the Line of Acceptance. Mr. Gintz testified that he met Mr. Willis while he was surveying the Line of Acceptance. On that occasion, he showed Mr. Willis a survey marker near the railroad that runs close to his property. Mr. Gintz expressed the view that Willis appeared to be on the boundary line when he saw him surveying that day. He testified that he votes in Rapides Parish and his property is assessed in Rapides Parish. The court also heard from Richard Troyce Robertson. Mr. Robertson lives on the Monroe Highway, in Ball, Louisiana, on a pie-shaped piece of family property that borders the "Line of Acceptance." The tip of Mr. Robertson's property almost touches the parish

boundary. He related that his home has always been assessed in Rapides Parish, he has always voted in Rapides Parish, and has recorded all deeds and mortgages in Rapides Parish. Mr. Robertson believes that his issues in trying to get his mail delivered may have instituted the current boundary dispute.

In their case in chief, Grant Parish presented the testimony of Grant Sheriff L.R. Hattaway and Charles O. Slay, Jr., former Rapides Parish Tax Assessor. Sheriff Hattaway is a life long resident of Grant Parish and has been sheriff since 1975. He testified that during his tenure with the sheriff's department there have been questions as to the boundary in terms of criminal activity. The Sheriff recounted a time in the early 1980s that he had a discussion with then Rapides Sheriff Cappel as to a boundary problem. However, under cross-examination, Sheriff Hattaway could not remember any specific case or argument as to the boundary line involving a criminal matter.

Mr. Slay's testimony came in by deposition. He served as Rapides Parish Tax Assessor from 1973 until his retirement in 1995. Mr. Slay had worked in the assessor's office since 1946. In his deposition testimony, Mr. Slay expressed the personal opinion that the boundary line between Rapides and Grant was indefinite. He further testified that there was no historical parish boundary that had been commonly recognized over the years. To support this contention, he recited several instances of property in the area of the boundary line that was assessed in either Grant or Rapides Parish but was situated in the other parish. Mr. Slay's testimony is clear that during his tenure as assessor, he and his counterpart in Grant always agreed as to which parish the property would be assessed in. His testimony never makes clear in any regard why the line was indefinite. Also his testimony does not square with the testimony of Ralph Gill & Luke L'Heureux. For these reasons, the court does not place any weight on the testimony of these Grant Parish witnesses.

It is significant to the Court that until this trial Grant Parish's own engineering firm, Pan American Engineers, has utilized in the preparation of its maps and surveys without exception the line referred to as the "Line of Acceptance.

While no evidence was discovered to indicate that the "Line of Acceptance" was marked and surveyed in its entirety on the ground, the evidence introduced at trial overwhelmingly established that the governments and citizenry of both Rapides Parish and Grant Parish followed the "Line of Acceptance" for all purposes for more than fifty years. It is also clear that in 1946 the police juries of both parishes certified maps that depict the "Line of Acceptance" as the location of the parish boundary. In addition, pursuant to Acts 1972, No. 2, a Constitutional Convention convened on January 5, 1973, for the purpose of framing a new constitution for the citizens of the State of Louisiana. The final draft was submitted to and overwhelmingly adopted by the citizens of the State of Louisiana during a special election held on April 20, 1974. The new constitution became effective at midnight on December 31, 1974. The 1974 Constitution includes the addition of Article VI, Section 1, Subsection (A), which reads as follows:

(A) Parishes and Boundaries Ratified. Parishes and their boundaries as established on the effective date of this constitution are recognized and ratified.

The issue to be decided by this court is the legal effect, if any, these facts have on the location of the boundary between the two parishes.

There is little jurisprudence to guide the court in reaching its decision. The most recent parish boundary case to be decided by the Louisiana Supreme Court was St. Martin Parish Police Jury v. Iberville Parish Police Jury, 33 So.2d 671 (La. 1947), an opinion more than 55 years old. This case decided by the Louisiana Supreme Court involved a dispute between the parishes of Iberville and St. Martin. The case was tried in St. Martin Parish, and the trial court ruled in favor of St. Martin Parish. The Supreme Court reversed the lower courts, finding that the parish boundary line was as contended by the Parish of Iberville. The court was divided, and three justices dissented from the majority opinion.

Both parishes were created by Act No. 891 of the 1807 legislature and the boundary line between the two parishes was fixed and established by Act No. 130 of the 1847 legislature. St. Martin Parish instituted the lawsuit, contending that Iberville was

wrongfully claiming more than 10,000 acres of land that was properly located in St. Martin Parish.

A map submitted by both parties revealed that only a portion of the boundary line was in dispute, that part described in the act as “thence following the said branch (the East Fork of Bayou Alabama), *including the inhabitants of both sides thereof*, upwards to the township line between townships six and seven, or the southern boundary of the parish of Pointe Coupee.”

In deciding the St. Martin case, the court, citing several previous decisions regarding rules of statutory construction, stated its duty is “to ascertain and give effect to the intention of the Legislature as expressed in the statute,...as the ultimate object is to reach the legislative intent.” Applying the rules of statutory construction, the court noted that the clause italicized above is ambiguous. The court noted that the legislature departed from its typical language in defining the boundary as it did, and that it must have made this departure intentionally.

The legislative act that established the boundary between the two parishes was published in English and in French. One translation of the French clause into English defined “inhabitants” as “plantations.” The majority of the court accepted that the translation of the boundary line the legislature intended was one that would follow the fork or branch of Bayou Alabama upward so as to include the plantations on both sides of the Bayou within either Iberville or St. Martin, not the translation that would establish the boundary along the thread (middle) of the East Fork of Bayou Alabama.

The court’s opinion included the examination of journals of the House and Senate of 1847 for the legislative history of Act No. 130. The history revealed that the act started as a result of two memorials presented by representatives of Iberville Parish. There was no evidence that legislators from St. Martin Parish took any interest in the passage of the bill. The court also noted that the act deals primarily with the Parish of Iberville. As a result, the court found that the legislature intended that the plantations on both sides of the bayou were to be included in Iberville Parish.

Once it determined that the legislature intended that the plantations on both sides of the bayou were to be included in Iberville Parish, the court noted that subsequent events supported its view. Various maps introduced into evidence supported Iberville's position as to the location of the boundary line.

The court stated that the fixing and defining of the boundary was a legislative function, and that the interpretation of the statute was a judicial function. The court also conceded that map compilers could not legally fix or establish any boundary other than that defined and called for by the act. However, the court gave import to the maps drawn by the map makers of the time, stating "when they marked and fixed the line on these maps..., they must have had good reason to believe that they were doing what the Legislature intended them to do."

A survey made at the request of St. Martin Parish 72 years after the boundary was established by the legislature was not accepted by the court because to do so would require that the court completely ignore and give no effect to the ambiguous clause in the Act. St. Martin took the position that under the ambiguous language in the Act, it had just as much right to claim the land at issue as Iberville Parish did. While that might be true the court noted, it also found it significant that Iberville Parish had always construed the act so as to include the disputed land, while for almost 100 years St. Martin made no such claim.

Evidence presented at trial included an affidavit from a former Iberville Clerk of Court. That affidavit indicated that in 1910 a committee of police jurors and the district attorney from St. Martin Parish met with the Iberville police jury for the purpose of discussing, settling, and fixing the boundary between the parishes. At this meeting, it was agreed that the land now at issue would be included within Iberville Parish. The affidavit indicated that both sides agreed that the respective police juries would pass resolutions designating the boundary as fixed by certain maps. The Iberville Parish Police Jury actually passed such a resolution. The St. Martin Parish Police Jury never actually passed its resolution, it only conducted one meeting where the committee's report was received; however, final

action on the committee's recommendation was deferred and the committee was discharged.

St. Martin Parish argued that these facts were irrelevant and without any probative value. The court indicated its agreement with St. Martin's position that a committee would have no authority to abandon and release any rights of St. Martin Parish, nor could the committee define and establish the boundary line. However, the court noted that the actions of the committee indicated that it accepted the interpretation fixed by the Parish of Iberville on the ambiguous clause so as to fix the boundary line as claimed by Iberville Parish.

The court in the St. Martin case also considered evidence consisting of various maps that, without exception, depicted the boundary line between the parishes to be as contended by Iberville Parish. Additionally, the court considered copies of patents issued by the State of Louisiana. In every instance in the area of the disputed boundary where the parish was designated, the land was described as being situated in Iberville Parish. The court also noted that approximately 85 percent of the deeds, transfers, and muniments of title affecting the disputed land were recorded independently and only in the Parish of Iberville, with the other 15 percent of these instruments recorded in St. Martin Parish. The court noted that this clearly indicated that the majority of the property owners in the disputed area were of the opinion and belief that their property was located in Iberville Parish.

The court also considered evidence that property in the disputed area had been assessed in both parishes, that tax sales of lands in the area had occurred in both parishes, and entries in the "Abstract Record Parish of St. Martin" included entries to almost every section of land in the disputed area. The court noted that the 1938 official map of the State of Louisiana shows the boundary line between the two parishes to be as contended by St. Martin Parish. However, the court noted that the weight of the evidence in the form of maps supported the boundary line suggested by Iberville Parish. Additionally, the map contained an indication that the boundary line between these two parishes was in litigation.

After reviewing the entire record, the majority of the court decided that the boundary contended by Iberville Parish was the boundary as defined and fixed by the legislature, and reversed the decision of the trial court. Three justices dissented from the majority opinion.

Although the St. Martin case is similar in many respects to the case at hand, it is distinguishable in many ways: 1) In St. Martin, all of the contemporaneous maps showed the property to be located in Iberville Parish; 2) The historical "line of acceptance" in the St. Martin case had been in use since 1847, the year the parish boundary was legislatively fixed; 3) Only one (not both) parishes had certified the correctness of the common boundary; 4) In St. Martin, the legal description at issue involved a fixed monument, not two monuments that were constantly changing, as in the case at hand. 5) The case was decided in 1947, long before the Louisiana Constitution of 1974 was adopted adding Article 6 relating to the establishment of boundaries between parishes. However, the St. Martin case is significant in that the Supreme Court of Louisiana did not disregard the evidence of the historical recognition of the boundary in making its determination as to its location. To the contrary, a significant portion of the opinion is dedicated to a discussion of the historical use of the boundary line. Further, the court in St. Martin did not preclude the possibility that parish police juries could enter into an agreement defining the common boundary between them.

Although Grant Parish argues that the judge's role is strictly to determine the legislative intent defining the common boundary between Grant Parish and Rapides Parish, it is clear that the parish governing bodies have a role in this process as well. Dr. Easterly testified that geographers commonly recognize four stages in the boundary determination process: 1) allocation (the political decision of the distribution of territory); 2) delimitation (the selection of a specific boundary location, often together with locational coordinates and mapping); 3) demarcation (the marking of the boundary on the ground); and 4) administration (supervising the maintenance of the boundary). Dr. Easterly further testified that while allocation of parish territory in Louisiana is the prerogative of the

legislature, the usual practice has been to allow the affected parishes to determine the final details of allocation.

Professor Easterly described that delimitation of the parish boundary line was customarily the practice and that delimitation of parish boundaries occurred when the parishes agreed to a line drawn on a map. There is anecdotal evidence in the record that contiguous parishes have entered into agreements concerning the location of their common boundary. For instance, in 1940, H.N. Fisk, Ph.D. Assistant Professor of Geology at Louisiana State University wrote in the "Geology of Avoyelles and Rapides Parish" (RPPJ 149) that "the present jagged dividing lines between Rapides and Natchitoches and between Rapides and Vernon were agreed upon in 1910 by the police juries of the Parishes concerned."

In the case at hand, there is strong evidence that the resolutions passed by Rapides Parish and Grant Parish provides written evidence that the delimitation of the common boundary between the parishes had occurred. That is, both parishes agreed to a line drawn on a map.

Before the court can consider the weight it should give to the reciprocal resolutions passed by Rapides and Grant parishes, it must first determine if the resolutions were within the scope of the police juries' legitimate power. At the outset, the Court notes that it finds no evidence in the record to support the argument that, in passing the resolutions in 1946, either Grant Parish or Rapides Parish thought that they were changing the location of their common boundary as defined by the legislative act. Rather, the court believes that in certifying the correctness of their parish boundaries as depicted on the maps, the police juries believed that they were setting their common boundary in a reasonable interpretation of the act given the ambiguities and "irreconcilable incongruities" in the legal description. Frank Willis and Dr. Easterly testified that earlier maps, such as the United States Department of Agriculture, Bureau of Soils: Rapides Parish Soil Map published in 1918, also depicted the boundary line where it was certified to have been located in 1946. Therefore, the evidence adduced at trial proved usage and

acceptance of the common boundary much earlier than the date of formal acceptance by the resolutions.

For the reasons that follow, this court is of the opinion that the two police juries were exercising their legitimate power when they adopted the resolutions. The Court notes that there is an absence of a Louisiana statute or jurisprudence to prohibit the police juries from doing so.

A police jury is a parish governing body that exercises legislative and executive functions as a political subdivision of the state. McIntosh v. Madison Parish Police Jury, 554 So.2d 227 (La.App. 2 Cir. 1989); Lake Charles Harbor & Terminal District v. Calcasieu Parish Police Jury, 613 So.2d 1031 (La.App. 3 Cir. 1993); Niette v. Natchitoches Parish Police Jury, 348 So.2d 162. Parishes and municipal corporations are creatures of the State and are vested only with such powers as are delegated to them by the Constitution or legislature of Louisiana. A police jury is the parish governing body that exercises legislative and executive functions as a political subdivision created by and subject to State legislative authority.

As such, a court should not interfere with the functions of a public body or with the exercise of discretion vested with it unless such body abuses its power by acting in an arbitrary capricious manner. Coliseum Square Ass'n v. City of New Orleans, 544 So.2d 31 (La. 1989); Torrence v. Caddo Parish Police Jury, 119 So.2d 617

A public body acts "capriciously" if it reaches a conclusion, which is rendered with no substantial evidence to support it, or the conclusion is contrary to substantial competent evidence. A public body acts "arbitrarily" if a decision has been made without due regard for or the proper weight of the evidence.

One example of the legitimate exercise of a police jury's legislative and executive functions falls under Section 31 of Act No. 42 of 1871, which provided assistance for tax collectors in different parishes pursuant to their police juries to procure maps and field

notes from United States surveys from any property contained to procure maps and field notes from United States surveys from any property contained in the parish, which of course were dully certified by the proper officers. This was used by the tax collectors in preparing their descriptive rolls for the assessment of taxes. Implicit in the act is that the police juries were required to delineate their boundaries pursuant to their legitimate police powers. Reference to a map pursuant to this act is noted in the St. Martin case. Using this example, it is clear to see that the passage of the reciprocal resolutions filled a legitimate power and was not arbitrary or capricious in any manner. Thus, it was reasonable for the respective juries to operate in what they reasonably believed to be in their spheres of influence along what was termed the line of acceptance. This court must ultimately conclude that the police juries were acting with the scope of their legitimate powers granted by the state, when they both passed resolutions to delineate the line of acceptance.

The next consideration is whether or not the resolutions were legitimately granted, but were ultimately *ultra vires* acts in some way. The Court's analysis of the former *ultra vires* law under 1946 jurisprudence confirms that the actions by the police juries were not *ultra vires* at the time. The jurisprudence is clear, as long as there was no prohibitive statute then the act was not *ultra vires*, as long as it was related to a legitimate objective of the police jury. Thus, the resolution would only have to be rationally related to a legitimate interest that the police juries were seeking to enforce. In considering this question, the court is also mindful that this was not a unilateral decision by one parish, but a reciprocal one intended to benefit them both.

If, in the alternative, the court is to consider the contemporary jurisprudence pursuant to *ultra vires* actions by political subdivisions, the analysis is different, but the outcome is largely the same. See City of Pineville, 231 La. 446, 91 So.2d 597, (La. 1956).

Based on the aforementioned reasons, it is the opinion of the Court that the resolutions were not contrary to the general powers and authority of the police juries of Rapides and Grant parishes, nor were they *ultra vires* acts. At most, because there was no statute to

specifically grant this power, we are looking at resolutions that are perhaps voidable. However, this was never sought as a remedy and the police juries seemed to be acting as reasonably prudent administrators.

Political subdivisions such as police juries conduct their formal business through the passage of resolutions and ordinances. What weight, if any, should the court give to the resolutions passed by Rapides and Grant that form the basis for the claim for the Line of Acceptance? It is clear from the jurisprudence that resolutions made by municipal corporations are analogous to ratification acts made by private corporations. However, the meaning of the term "resolution" and "ordinance" are vastly different.

In James v. Rapides Parish Police Jury, 236 La. 493, 108 So.2d 100, the Louisiana Supreme Court could not subscribe to one of the parties' view that there was no difference between a resolution and an ordinance. In a broad sense an ordinance is a local law or rule prescribed by a public subdivision or municipality that emanates from its legislative authority as distinguished from administrative action; it is a permanent rule, a law, or a statute. See Black's Law Dictionary page 1238; McQuillin's, 'Municipal Corporations,' 3rd Ed. Vol. 5, Sec. 15.01. The Court went further to state that a resolution on the other hand has been defined to be a formal expression of the opinion or will of an official body, adopted by vote; the adoption of the motion, the subject matter, of which would not properly constitute a statute.

Resolutions made by police juries and other municipal corporations generally deal with matters of a special or temporary character and may be considered merely statements of intent. James, cited above. Both Rapides Parish and Grant Parish passed resolutions within three days of one another that dealt specifically with the location of their common boundary. The resolution passed by Grant Parish evidences a careful consideration of the map presented for certification as the police jury noted and corrected errors describing ward lines within the parish. The resolutions were unanimously passed without debate. Moreover, before and certainly after the resolutions were passed, Rapides and Grant parishes, their public officials, and the citizenry acted in conformity with the boundary

line described in the resolutions for more than fifty years. While there is evidence that the "Line of Acceptance" was being followed before the resolutions were passed, it is certainly clear that the "Line of Acceptance" has been observed as the boundary line between the parishes ever since.

Although the court notes that resolutions are generally temporary in nature, it is difficult to argue that resolutions that have been observed for more than 50 years are anything but permanent.

Grant Parish argues that the resolutions and subsequent actions by both parishes are irrelevant and meaningless because of LSA R.S. 50:221. This statute is a procedural statute that must be resorted to prior to resorting to the courts for a judicial fixing of a disputed parish boundary line that has not been previously surveyed "on the ground."

The statute provides:

Whenever the governing authority of any parish desires to ascertain and fix the boundary line of any adjoining parish, it shall pass an ordinance to that effect fixing a time and place for starting the running of the boundary. It shall then serve the presiding officer of the governing authority of the adjoining parish with a copy of the ordinance and with notice, at least six months in advance, of the time and place of starting the running of the boundary.

The surveyors appointed for that purpose, or, if there were none specifically appointed, the parish surveyors of both parishes shall, at the time fixed, proceed to the running and marking of the boundary line. If the surveyor of either parish fails to attend at the time and place fixed, the other surveyor shall wait two days and if the first does not arrive within that time shall proceed to the running and marking of the boundary line.

This statute does not prohibit, nor does it give permit, parishes to enter into an agreement as to their interpretation of the boundary as allocated by the legislature. However, the notes following the statute cross-reference Civil Code article 789 related to the fixing of boundary between private landowners. As between private landowners, the parties may fix their common boundary by written agreement.

The Office of the Attorney General of the State of Louisiana has opined that parishes may extra judicially settle their boundary disputes. In La. Atty. Gen. Op. No. 96-37, 1996 WL 454726 (La. A.G.), the attorney general's office issued an opinion in a potential conflict

between Washington and Tangipohoa Parishes that the Revised Statutes provide several methods for the survey of parish boundaries, including R.S. 50:121, 50:151, and 50:221 and noted that the survey technique to be used is the subject for discussion among parish authorities. One of the survey methods approved in this opinion includes "a new line to be agreed upon by the parishes. The attorney general's office noted, "agreement between the parishes would be essential to the establishment of a legal and enforceable boundary."

Delimitation of the parish boundary line was customarily the practice, which allowed the parishes to extra judicially settle their boundary problems. The parishes were not seeking to change the boundary line. As far as they knew, for fifty years or more, they were complying with the boundary defined in the legislative act of 1869.

Persuasively from Sutherland Statutes and Statutory Construction §30:3. Municipal Resolutions:

A municipal resolution, like a legislative resolution, is less formal than a statute or ordinance and usually relates to temporary or administrative matters. Unless the legislative body of a municipality follows substantially the formalities requisite for the enactment of an ordinance, its action cannot be enforced as an ordinance. Thus, a simple verbal motion or resolution, even though subsequently reduced to writing, made a part of the record, and adopted, is not an ordinance. It is not necessary that the action be called an "ordinance" for the name is immaterial. If the regulation is permanent and it has been enacted in the requisite manner, it will be enforced as an ordinance.

This persuasive argument shows that some of our sister jurisdictions have adopted the concept that municipal resolutions when put in writing may have the force of an ordinance if it's regulatory character can be considered an ordinance, even though it is not called one. The resolutions of 1946 did define the reciprocal duties of the parties, and did regulate their spheres of influence. It established not only lines for civil activity, but criminal jurisdictions as well. Although under the Louisiana jurisprudence, it is not a law, it is at the very least a regulatory device that controlled the flow of the law in these two parishes. This seems to fit the language "enforced as an ordinance."

Although the resolutions in question were not considered ordinances, they are certainly statements of intent by the police juries, and there is plenty of evidence in the record to

substantiate a finding by the court that both police juries relied on the certification of their boundaries as evidenced by the resolutions. Again, this is not evidence of intent to change the boundary as defined by the legislative act, but rather evidence of the intent of the parties to legitimately control their jurisdictions under what they reasonably believed to be the boundaries of the two parishes.

Although the resolutions in question were not considered ordinances, the court takes judicial notice that Rapides Parish did pass multiple ordinances based on the resolutions. An example of one is the Ward Eleven ordinance, from the Compiled Ordinances Parish of Rapides Louisiana, which states in pertinent part:

Section 1-6: Ward eleven of Rapides Parish shall be defined as follows:

All of Rapides Parish lying north of Red River and east of a line thusly described, shall constitute Ward Eleven: Begin at a point where the line between Sections 18 and 19, T3N-R1E, intersects the north side of Red River; thence run north to Section 13, T3N-R1E; thence northeasterly to the NE corner of said Section 13; thence run northwesterly to the intersection of said Section 13 with the section line between Sections 11 and 12, T3N-R1E; thence run north to the SW corner of Section 1, T4N-R1E; thence run north to the township line common to Township 4N and 5N; thence east along the township line to the west boundary of Section 43; thence north along the west boundary of Section 43 to the centerline of Bayou Flaggon; thence run down Bayou Flaggon to its intersection with the east line of Section 38, T5N-R2E; thence run northwesterly along the said east line of Section 38 to the NW corner of Section 36, T5N-R2E; thence run east to the NE corner of Section 36, T5N-R2E; thence run north to the parish line between Grant and Rapides Parishes. (Ord. of 9-12-61)

Here, presumably, Grant Parish has a similar reciprocal ordinance establishing its Ward system using the line of acceptance and the resolutions entered into by both parishes. Again, this is evidence of the intent of the parties to legitimately control their jurisdictions under what they reasonably believe to be the boundaries of the two parishes.

The final consideration for the court is what weight can the court give these resolutions? Rapides Parish and Town of Ball argue that the Line of Acceptance was ratified by the Louisiana Constitution of 1974 pursuant to Article 6, Section 1, which states in pertinent part:

(A) Parishes and Boundaries Ratified. Parishes and their boundaries as established on the effective date of this constitution are recognized and ratified.

(B) Creation; Dissolution; Merger; Boundaries. The legislature by law may establish and organize new parishes, dissolve and merge parishes, and change parish boundaries if approved by two-thirds of the electors in each parish affected voting thereon at an election held for that purpose.

As noted above, the court finds that when Grant Parish and Rapides Parish passed their reciprocal resolutions in 1946, they were not attempting to change the common boundary between the parishes. Rather, the court believes that in certifying the correctness of their parish boundaries as depicted on the maps, the police juries believed that they were setting their common boundary in a reasonable interpretation of the act given the ambiguities and “irreconcilable incongruities” in the legal description. For that reason, the court does not believe that Subsection (B) quoted above is applicable. When parishes wish to change their boundaries, the approval of two-thirds of the voters in each affected parish is required. Subsection (A) is clear in its language that parishes and their boundaries as established on the effective date of the Constitution are ratified and recognized. If the common boundary between Rapides and Grant was established as of the 1974 effective date of this provision, then Grant Parish has no basis in the law for its current claims.

The issue to be decided by the court is whether the common boundary between Rapides and Grant was “established” by the 1974 effective date of Article 6, Section 1(A). The word “established” was not used as a word of art with an assigned definition. It must therefore be construed as having the general definition assigned by usage. A resort to any dictionary will disclose that within the broad confines of the word “establish” there exist many meanings, including “to settle, make or fix firmly, to enact permanently,” “to make or form to bring about into existence,” and “to prove; to convince.” Black’s Law Dictionary, 7th Edition, 1999. The court finds that the boundary between Rapides Parish and Grant Parish was “established” on the effective date of the 1974 Constitution.

As mentioned many times in this opinion, there is no credible evidence in the record to indicate that the common boundary between Grant and Rapides was disputed by either parish governing body, its elected officials, or its citizenry until 1997 when Grant Parish took its first steps toward contesting the boundary. Although the “Line of Acceptance”

In Arkansas v. Tennessee, 310 U.S. 563 (1940), the Supreme Court, quoting from the earlier case of Rhode Island v. Massachusetts, 45 U.S. 591, 639 (1846), described the "Rule of Acquiescence" as follows:

For the security of rights, whether of states or individuals, long possession under a claim of title is protected. And there is no controversy in which this great principle may be involved with greater justice and propriety than in a case of disputed boundary.

In the various decisions cited above, the Supreme Court has identified various facts to be considered in analyzing the evidence to determine the extent of the exercise of sovereignty, dominion and control under the "Rule of Acquiescence": 1) the assessment and collection of taxes over a long period of time; 2) The exercise of criminal and civil jurisdictions by the courts of a state; 3) Township surveys prepared by the United States General Land Office has sometimes been regarded as evidence of the exercise of jurisdiction and sovereignty; 4) Grants by the state to individuals; 5) Acts and recognitions of state and parish officials and individuals that tend to show in which sovereign the land is located; 6) The general reputation and treatment by private citizens as to the location of the boundary; 7) Occupancy, cultivation, and other use; and 8) Inaction by a sovereign may itself constitute acquiescence.

If the court were to analyze the facts presented at trial under the "Rule of Acquiescence" it would find that Rapides Parish has asserted long and continuous jurisdiction and authority to the "Line of Acceptance" with the acquiescence of Grant Parish.

The Common Error Doctrine has been applied in cases between private landowners, in criminal cases where the jurisdiction of a particular parish has been at issue because of a boundary dispute, and between the State and one of its agencies in a suit against a private corporation. Booksh v. A. Wilbert Sons Lumber and Shingle Company, 39 So. 9 (La. 1905), State v. Malone, 64 So. 711 (La. 1914), State v. Beard, 191 So.2d 631 (La. 1966), State v. Texas Co., 211 La. 326, 30 So.2d 107 (La. 1947). The doctrine has never been applied between two parishes involved in a boundary dispute. The doctrine provides that "where the boundary between two parishes has never been surveyed and established by conjoint survey and a certain section has been treated by parochial authorities and the

owners as lying wholly within one of the parishes, the Court will apply the maxim 'L'erreur commune fait le droit.' State v. Texas Co., infra. Roughly translated, the doctrine means "common error makes the right" and it has been applied in Louisiana decisions dating back to 1847. In Cumming v. Biossatt, 2 La. Ann. 794, decided by the Louisiana Supreme Court that year, the Court held that the rights of the parties must be judged according to the common understanding which has existed for a period of years preceding the controversy or suit.

The Louisiana Supreme Court's most recent expression of the Common Error Doctrine is found in Comegys v. Stanolind Oil and Gas Company, 227 La. 657; 80 So. 2d 110 (1955):

...we have consistently held that the consideration and acceptance of landowners in that area adjoining the boundary line, and that of parish officials and official agencies, including proof of the levying and collection of taxes, was admissible proof, and that the judge before whom the suit was originally instituted should hear and consider all relevant facts for the purpose of determining the extent of the territorial jurisdiction over which he presides. Our jurisprudence in that respect is founded on the maxim 'L'erreur commune fait le droit.'

If the court were to analyze the facts established at trial under the Common Error Doctrine it would find that until 1997 the common understanding of both Rapides Parish and Grant Parish as to the location of its common boundary was the "Line of Acceptance."

Rapides Parish and Town of Ball also urge the court to adopt principles of "equitable estoppel" to prevent Grant Parish from requesting the survey of a line other than the "Line of Acceptance." While the court feels strongly that changing the line to the Bringhurst Line would be patently unfair to all of the citizens of Grant Parish and Rapides Parish, and that any movement of the line at all results in an injustice on both sides of the line, because of the conclusion we have reached in the case, it is not necessary to discuss at length this argument. It is evident that movement of the line would disrupt the operation of local, parish, state and federal government, children, taxpayers, voters, homeowners, industry, and others and would open the floodgates of litigation. Further, jurisprudence suggests that Grant Parish would have to reimburse Rapides Parish for

improvements such as roads, bridges, schools, or other similar improvements. Suffice it to say that the court considers the argument well taken.

For the reasons assigned, the boundary line between the Parishes of Rapides Parish and Grant is the "Line of Acceptance." In the course of Mr. Willis' work, the "Line of Acceptance" was surveyed and marked on the ground as contemplated by the law. As a result, there is no need to order that the boundary line be surveyed again. Costs are assessed against the defendant, Grant Parish Police Jury.

Thus rendered this 29th day of April, 2004.

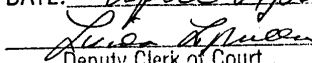


HARRY F. RANDOW, JUDGE
DIVISION G

SENT TO:

ALBIN PROVOSTY
BRIAN CESPIVA
NEIL ERWIN
GARY KEYSER
THOMAS O. WELLS

FILED

DATE: *April 29, 2004*


Deputy Clerk of Court