litical power; it comes to the court, to be decided by its judgment, legal discretion and solemn consideration of the rules of law appropriate to its nature as a judicial question, depending on the exercise of judicial power; as it is bound to act by known and settled principles of national or municipal jurisprudence, as the case requires." [1002]

Modern Types of Suits Between States.—Beginning with *Missouri v. Illinois & Chicago District*,[1003] which sustained jurisdiction to entertain an injunction suit to restrain the discharge of sewage into the Mississippi River, water rights, the use of water resources, and the like, have become an increasing source of suits between states. Such suits have been especially frequent in the western states,[1004] where water is even more of a treasure than elsewhere, but they have not been confined to any one region. In *Kansas v. Colorado*,[1005] the Court established the principle of the equitable division of river or water resources between conflicting state interests. In *New Jersey v. New York*,[1006] where New Jersey sought to enjoin the diversion of waters into the Hudson River watershed for New York in such a way as to diminish the flow of the Delaware River in New Jersey, injure its shad fisheries, and increase harmfully the saline contents of the Delaware, Justice Holmes stated for the Court: "A river is more than an amenity, it is a treasure. It offers a necessity of life that must be rationed among those who have power over it. New York has the physical power to cut off all the water within its jurisdiction. But clearly the exercise of such a power to the destruction of the interest of lower States could not be tolerated. And on the other hand equally little could New Jersey be permitted to require New York to give up its power altogether in order that the River might come down to it undiminished. Both

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[1002] 37 U.S. at 737. Chief Justice Taney dissented because of his belief that the issue was not one of property in the soil, but of sovereignty and jurisdiction, and hence political. Id. at 752–53. For different reasons, it should be noted, a suit between private parties respecting soil or jurisdiction of two states, to which neither state is a party, does not come within the original jurisdiction of the Supreme Court. Fowler v. Lindsey, 3 U.S. (3 Dall.) 411 (1799). For recent boundary cases, *see* United States v. Maine (Rhode Island and New York Boundary Case), 469 U.S. 504 (1985); United States v. Louisiana (Alabama and Mississippi Boundary Case), 470 U.S. 93 (1985); United States v. Maine, 475 U.S. 89 (1986); Georgia v. South Carolina, 497 U.S. 336 (1990); Mississippi v. Louisiana, 506 U.S. 73 (1992).

[1003] 180 U.S. 208 (1901).

[1004] *E.g.* Montana v. Wyoming, 563 U.S. ___, No. 137, Orig., slip op. (2011).

[1005] 206 U.S. 46 (1907). *See also* Idaho ex rel. Evans v. Oregon and Washington, 444 U.S. 380 (1980).

[1006] 283 U.S. 336 (1931).