

peals is given upon affirming the order granting the injunction. The case was then tried, and the decision of the United States Circuit Court in Minnesota, upon such trial, directing judgment for the plaintiffs, is reported in 103 Fed. Rep. 104, and upon appeal the decision of the United States Circuit Court of Appeals for the Eighth Circuit, affirming the judgment, is reported in 109 Fed. Rep. 354. Those courts were of opinion that the Land Department had no right to make the proposed survey, and that the fractional lots went to the lake, and the government could not revoke its grant and correct the survey so far as regarded the patentees, or their grantees, in good faith. Upon writ of error from this court the judgment was reversed for the reason that the remedy by injunction was not proper, and also because the Land Department was vested with the administration of the public lands and could not be divested by the fraudulent action of a subordinate officer outside of his authority, and in violation of the statute. The exact point involved here was not presented in that case, and this court held that it could not be passed upon in that proceeding. 189 U. S. 35.

For the reasons we have stated, we cannot concur in the conclusions of the lower Federal courts, that the patentees had the right to bound their lots by the lake as it actually existed. The judgment is

*Affirmed.*

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SECURITY LAND AND EXPLORATION COMPANY *v.*  
WECKEY.

ERROR TO THE SUPREME COURT OF THE STATE OF MINNESOTA.

No. 128. Argued January 19, 1904.—Decided February 29, 1904.

Argued simultaneously with, by the same counsel, and on the same briefs as, No. 127.

MR. JUSTICE PECKHAM delivered the opinion of the court.

WINOUS POINT SHOOTING CLUB *v.* CASPERSEN. 189

193 U. S.

Opinion of the Court.

In this case land in the same section as in the foregoing case is involved, and as the title depends upon precisely the same facts, this case is by stipulation of counsel to abide the event of the other.

*Judgment affirmed.*

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WINOUS POINT SHOOTING CLUB *v.* CASPERSEN.

ERROR TO THE SUPREME COURT OF THE STATE OF OHIO.

No. 153. Argued February 24, 1904.—Decided March 7, 1904.

Federal questions cannot be raised in this court which did not arise below, and where no Federal question is otherwise raised, and the only provision of the Constitution referred to in the assignment of errors in the State Court has no application, an averment of its violation creates no real Federal question and the writ of error will be dismissed.

THE facts are stated in the opinion of the court.

*Mr. S. H. Holding*, with whom *Mr. Harvey D. Goulder* and *Mr. Frank S. Masten* were on the brief, for plaintiff in error.

*Mr. George A. True* for defendants in error.

MR. CHIEF JUSTICE FULLER delivered the opinion of the court.

This was a suit brought by the Winous Point Shooting Club against Caspersen and others in the Court of Common Pleas, Ottawa County, Ohio, to enjoin defendants from fishing on certain premises alleged to be parts of Sandusky River and Mud Creek and to belong to plaintiff.

The court found that the waters in dispute formed part of a public bay, which defendants had the right to navigate and to fish in; and dismissed the petition.

The case was then carried to the Circuit Court of Ottawa