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Syllabus.

v. *Anderson*, 9 Wall. 56, 65; *United States v. Padelford*, 9 Wall. 531; *United States v. Klein*, 13 Wall. 128.

The cotton in the present case, unlike that to which the Act of March 12, 1863, applied, was the subject of a business enterprise and taken to a market opened by the United States forces upon the conditions expressed in the Act of July 2, 1864—that is, that its owners should turn over to the Government one-fourth of the cotton, or its money equivalent, which would immediately become the property of the United States. *Cutler v. Kouns*, *supra*. The conditions in the two situations, therefore, are in broad contrast and it could not have been the intention of § 162 to confound the conditions. The section did no more than remove the bar of limitation of time to sue that was given by the Act of March 12, 1863. It did not intend to transfer property that had become that of the United States.

*Judgment affirmed.*

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LANE, SECRETARY OF THE INTERIOR, v. DAR-  
LINGTON ET AL., TRUSTEES, ESTATE OF  
CLAPP.

APPEAL FROM THE COURT OF APPEALS OF THE DISTRICT  
OF COLUMBIA.

No. 219. Argued March 12, 1919.—Decided March 31, 1919.

An official resurvey of the boundary of a patented Mexican grant, for the purpose of defining contiguous public land, does not operate as an adjudication against the grant owner or otherwise so affect his rights as to afford him ground for an injunction suit against the Secretary of the Interior.

46 App. D. C. 465, reversed.

THE case is stated in the opinion.

*Mr. Assistant Attorney General Kearful*, with whom *The Solicitor General* was on the brief, for appellant.

*Mr. F. W. Clements*, with whom *Mr. Alex. Britton* was on the brief, for appellees.

MR. JUSTICE HOLMES delivered the opinion of the court.

This is a bill in equity brought by the appellees to restrain the Secretary of the Interior from carrying out a resurvey of a part of the boundary of a Mexican grant. The plaintiffs hold the legal title to the grant and the adjoining land belongs to the United States. The boundary was surveyed by one Hancock and on June 22, 1872, the grant was patented. A bill to set aside the patent was dismissed in *United States v. Hancock*, 133 U. S. 193, (1890.) Doubts having arisen as to where a portion of the Hancock line on the northern boundary ran, the Land Department employed one Perrin to make a resurvey. It found and reestablished the original monuments except between Hancock's stations 20 and 25, and attempted to fix the line between these also. In 1901 the resurvey was approved by the Commissioner of the General Land Office, but in 1902 on an appeal, the Secretary of the Interior reversed the approval and ordered a new survey of the line between stations 20 and 25. This was made by one Sickler and was approved by the Secretary of the Interior on February 28, 1907. On September 5, 1913, the Secretary vacated the Sickler survey and ordered the reestablishment of the Perrin line. The present bill to restrain the carrying out of this order was dismissed on motion by the Supreme Court of the District of Columbia but the decree was reversed and an injunction ordered by the Court of Appeals.

The bill, of course, is not a bill against the United States brought on the ground that it is claiming land

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belonging to the plaintiffs. The bill does not seek to try the title. It is brought on the ground that the power of the Secretary is exhausted, and it may be doubted whether that is a matter with which the plaintiffs have anything to do. But however that may be, the whole proceeding on behalf of the United States is simply an effort to fix the boundaries of its own land. It is recognized, it was recognized when the Perrin survey was set aside, that the United States has no authority to change the Hancock line; but it has a right for its own purposes to try to find out where that line runs and the fact that its conclusions may differ from that of the owners of the Hancock grant does not diminish that right. So long as the United States has not conveyed its land it is entitled to survey and resurvey what it owns and to establish and reestablish boundaries, as well one boundary as another, the only limit being that what it thus does for its own information cannot affect the rights of owners on the other side of the line already existing in theory of law. If, as the result of the survey adopted, the United States should give patents for land thought by the plaintiffs to belong to them, "the courts can then in the appropriate proceeding determine who has the better title or right. To interfere now, is to take from the officers of the Land Department the functions which the law confides to them and exercise them by the court." *Litchfield v. The Register*, 9 Wall. 575, 578. *Minnesota v. Lane*, 247 U. S. 243, 250.

We know of no warrant for the notion that the power is exhausted by a single exercise of it. Repeated retracement of lines, although, of course, exceptions, are well known, we believe, to the Land Department, as, with the limitation that we have expressed, there is no reason why they should not be. The case is different when the act of the Secretary is directed to a third person, as for instance, the approval of a map of the location of a railroad over public lands, where the approval operates as a

grant. *Noble v. Union River Logging R. R. Co.*, 147 U. S. 165. See *New Orleans v. Paine*, 147 U. S. 261, 267. But this retracing of the Hancock line is not directed to the plaintiffs, but, as we have said, is an investigation by the United States on its own account. The plaintiffs gained no rights by the approval of the Sickler line; they lose none by the substitution of the Perrin line. These acts were neither adjudications nor agreements. The plaintiffs' rights were fixed before. Even after land had been sold with reference to a survey and plat that had been approved, this Court refused to restrain the Secretary from making a new survey in *Kirwan v. Murphy*, 189 U. S. 35. See *Lane v. United States ex rel. Mickadiet*, 241 U. S. 201, 208. *Northern Pacific Ry. Co. v. United States*, 227 U. S. 355.

We are of opinion that the decision of the Court of Appeals was wrong.

*Decree of the Court of Appeals reversed, with directions to affirm the decree of the Supreme Court dismissing the bill.*

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CAPITOL TRANSPORTATION COMPANY v.  
CAMBRIA STEEL COMPANY.

CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE  
SIXTH CIRCUIT.

No. 231. Argued March 14, 17, 1919.—Decided March 31, 1919.

An owner who by personal contract has warranted the seaworthiness of a vessel, and is also privy to and has knowledge of her unseaworthiness, to which is due a loss of cargo, is not within the Limited Liability Act of June 26, 1884.

Concurrent findings of two lower courts accepted.

244 Fed. Rep. 95, affirmed.