costs, and that this cause be, and the same is hereby, remanded to the said District Court, with directions to enter a decree in favor of the complainant, continuing the injunction in this cause, and for such further proceedings, in conformity to the opinion of this court, as to law and justice may appertain.

THE UNITED STATES, APPELLANTS, *v.* THE HEIRS OF BOISDORÉ.

SAME, APPELLANTS, *v.* THE HEIRS OF POWERS.

SAME, APPELLANTS, *v.* THE HEIRS OF TURNER.

In 1824, Congress passed an act (4 Stat. at L., 52), entitled "An act enabling the claimants to lands within the limits of the State of Missouri and Territory of Arkansas to institute proceedings to try the validity of their claims."

The second section provided that, in "all cases, the party against whom the judgment or decree of the said District Court may be finally given, shall be entitled to an appeal, within one year from the time of its rendition, to the Supreme Court of the United States"; and the fifth section enacted that any claim which shall not be brought by petition before the said courts within two years from the passing of the act, or which, after being brought before the said courts, shall, on account of the neglect or delay of the claimant, not be prosecuted to a final decision within three years, shall be forever barred.

In 1844, Congress passed another act (5 Stat. at L., 676), entitled "An act to provide for the adjustment of land claims within the States of Missouri, Arkansas, and Louisiana, and in those parts of the States of Mississippi and Alabama, south of the thirty-first degree of north latitude, and between the Mississippi and Perdido Rivers."

It enacted, "that so much of the expired act of 1824 as related to the State of Missouri be, and is hereby, revived and reënacted, and continued in force for the term of five years, and no longer; and the provisions of that part of the aforesaid act hereby revived and reënacted shall be, and hereby are, extended to the States of Louisiana and Arkansas, and to so much of the States of Mississippi and Alabama as is included in the district of country south of the thirty-first degree of north latitude, and between the Mississippi and Perdido Rivers."

The act of 1824, revived and reënacted by the act of 1844, did not expire in five years from the passage of the act of 1844, so far as regards appeals from the District Court to this court. It will continue in force until all the appeals regularly brought up from the District Courts shall be finally disposed of.[1]

THE first two of these cases were appeals from the District Court of Mississippi. One of them, viz., *The United States* v. *The Heirs of Boisdoré*, was the same case in which a motion

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[1] CITED. *United States* v. *Porche*, 12 How., 432.

to dismiss was made at the preceding term, as reported in 7 Howard, 658.

*The third was an appeal from the District Court of [*114 Louisiana.

A motion was now made to dismiss the whole three, upon a ground which was common to them all, viz., that the act of 1844, reviving and reënacting the act of 1824, continued it in force for the term of five years, and no longer; and that, as the act was passed on the 17th of June, 1844, it expired upon the 17th of June, 1849. By reason of which expiration, it was alleged, this court had no longer any jurisdiction over the case.

By an act of June 17th, 1844, (5 Stat. at L., 676,) entitled "An act to provide for the adjustment of land claims within the states of Missouri, Arkansas, and Louisiana, and in those parts of the states of Mississippi and Alabama south of the thirty-first degree of north latitude, and between the Mississippi and Perdido Rivers," it is enacted, "That so much of the expired act of the 26th of May, 1824, entitled 'An act to enable claimants to land within the state of Missouri and territory of Arkansas to institute proceedings to try the validity of their claims,' as related to the state of Missouri, * * * be and is hereby revived and reënacted, and continued in force for the term of five years, and no longer; and the provisions of that part of the aforesaid act, hereby revived and reënacted, shall be and hereby are extended," to the states of Louisiana, Mississippi, &c., "in the same way, and with the same rights, powers, and jurisdictions, to every extent they can be rendered applicable, as if these states had been enumerated in the original act hereby revived, and the enactments expressly applied to them, as to the state of Missouri; and the District Court and the judges thereof, in each of these states, shall have and exercise the like jurisdiction over the land claims in their respective states and districts, originating with either the Spanish, French, or British authorities, as by said act was given to the court and the judge thereof in the state of Missouri."

The act of the 26th of May, 1824, thus revived and reënacted, (4 Stat. at L., 52,) after describing the classes of cases embraced within its provisions, prescribes, that the claimants shall present a petition to the District Court, setting forth their claims; that proper parties, including the district attorney, shall be made; that the proceedings shall be conducted according to the rules of a court of equity; and that the said court shall have power to hear and determine the questions arising in the cause, and to make a decree. It then, in the

latter part of the second section, enacts:—"And in all cases, the party against whom the judgment or decree of the said
*115] District Court may be finally given shall be entitled to an appeal, within one *year from the time of its rendition, to the Supreme Court of the United States, the decision of which court shall be final and conclusive between the parties; and should no appeal be taken, the judgment or decree of the said District Court shall, in like manner, be final and conclusive."

By the fifth section it is enacted "that any claim to lands, tenements, or hereditaments, within the purview of this act, which shall not be brought by petition before the said courts within *two* years from the passing of this act, or which, after being brought before the said courts, shall, on account of the neglect or delay of the claimant, not be prosecuted to a final decision within *three* years, shall be forever barred, both at law and in equity; and no other action at common law, or proceeding in equity, shall ever thereafter be sustained, in any court whatever, in relation to said claims."

In the three cases above mentioned, petitions had been filed in the respective courts, and the district judge confirmed the claims to the several petitioners. The United States appealed to this court.

The motion to dismiss was sustained by *Mr. Volney Howard* and *Mr. Henderson*, and opposed by *Mr. Gillet* and *Mr. Johnson* (Attorney-General).

The motion and brief, as filed by *Mr. Henderson*, were as follows:

The appellees have presented their respective motions to dismiss these cases, in form, as follows:—

"And now at this term come the appellees, by attorney, and move the court to dismiss this case, because the court has no jurisdiction thereof, in this, to wit:—That the court from which this case is brought here by appeal had but a limited and special jurisdiction of the case in virtue of two acts of Congress, the one of date 17th June, 1844, entitled 'An act to provide for the adjustment of land claims within the states of Missouri, Arkansas, Louisiana, and those parts of the states of Mississippi and Alabama south of the 31st degree of north latitude, and between the Mississippi and Perdido rivers,' and which said act revived a certain other expired act therein recited of date 26th May, 1824, for five years and no longer, and during the operative existence of which two acts, the decree in this case was pronounced. And because by

virtue of which said act of 1824, so revived as aforesaid, and by no other law or authority whatever, this court was assigned to have a like special jurisdiction of this case by appeal; but which act, so revived as aforesaid, ceased and expired on the 17th of June, *1849, by express legislative limitation, [*116 without any saving clause for the adjudication of cases then pending."

Assuming the facts to be as set forth in this motion, we contend that there is now no law in force giving to this court jurisdiction of these cases, or of supplying any rule by which it can review them; and the same must therefore be dismissed.

It is well settled, that this court has no general jurisdiction in matters of appeal. That unless Congress authorize an appeal by statute, none can be entertained. 11 Pet., 165, 166; 3 How., 104; 6 Pet., 495; 1 Cranch, 212; 3 Id., 159; 6 Id., 307; 3 Dall., 321, 327; 1 How., 268; 3 Id., 317; 7 Wheat., 38; 3 Pet., 193; 7 Id., 568.

It is equally well settled, that the United States have no greater claim to assert the right of appeal, or any other legal right as a litigant, than a citizen has; and have no right of appeal unless expressly accorded to them by act of Congress. 6 Pet., 494; 11 Id., 165, 166.

If, therefore, it be shown that the appeal given by the statute of 1824 was special, and had its origin with that statute, and that the statute conferred a special and peculiar jurisdiction, appellate as well as original, and that said statute has expired or is repealed, we suppose the legal conclusion of such showing to be demonstrative in favor of our motion to dismiss, unless some other law be shown to sustain the appeal.

A mere glance at the records and decrees in these cases, show them to have been adjudicated in pursuance of the authority conferred by these two statutes. And the reading of the statute of 1824 will certify the speciality of the jurisdiction it confers in every section.

It is special as to the states to which it applies, being but five in number. Special as to the classes of cases it submits for trial; and even excepts one case of the classes submitted.

It is special in designating the court to have cognizance of the cases, and directing the mode of procedure. Selecting the District Courts of the United States, which have no general chancery jurisdiction, and directing them to adjudicate the cases in accordance with equity practice.

It is peculiarly special, also, in enlarging the field of equity power in the latitude given for the decision of these cases. Submitting them to be adjudged in "conformity with the principles of justice," and "according to the law of nations;

the stipulations of any treaty, and proceedings under the same; the several acts of Congress in relation thereto; the laws and ordinances of the government from which it (the title) is alleged to have been derived; and all other questions properly arising between the claimant and the United States."

*117] *It is strikingly special in permitting the citizen to implead and litigate with the government.

The rules of evidence are special; the common law rules being relaxed in these cases.

The statute submitted, also, legal and complete titles to be tried under equitable rules.

The decree to be pronounced was special in its recitals and requirements.

The powers of the court were peculiarly special, also, in being permitted to decree the survey of the claims adjudged, though affecting the public domain.

And the operation and effect of the decree are also singularly special, when, after adjudging the title of the petitioner in his favor, it deprived him of so much of the claim as the United States had previously disposed of, and turned him over for reclamation upon the public lands: the decree, to this extent, thus operating as land scrip.

The time allowed for an appeal from decrees pronounced under this statute is special, being limited to one year.

Such are a portion of the peculiar and special rules under which proceedings in these cases have been carried on, and the decrees pronounced, pursuant to the act of 26th May, 1824, and while it was in force. And such only must be the rules by which this court can review and revise these cases, if it assumes to review them at all. It must be certainly requisite, then, if this court is to review these cases by these rules (being the rules by which the court below adjudged them), the rules themselves must have vitality, and be in force. Because, from no other laws and from no other source of authority, can these rules be invoked, but from the act of 1824. But this act, by the special limitation of the act of 1844, which revived it, was prescribed in the precise measure and duration of its operative existence; and the act again became *functus* on the 17th of June, 1849.

This act, therefore, which conferred specially all the jurisdiction this court could ever entertain of these cases, is now as if it had never been, except as to the rights it conferred, consummated, or established, while in force.

This court, then, can have no right to retain these cases upon its docket, because it has no rule, law, or authority in existence by which it can try and adjudge them. In other

words, the jurisdiction by which it was contemplated this court should have cognizance of these cases was wholly special, and the law which conferred it is extinct, and has ceased to be a rule. And this conclusion we think clearly sustained by the following authorities. **Miller's case*, [*118 3 Burr., 1456; 1 Hill (N. Y.), 328–336; 2 Pet., 523, 524; 5 Mart. (La.), 462; 4 Wend. (N. Y.), 211; 6 Id., 526; 1 Watts. (Pa.), 258; 4 Yeates (Pa.), 392; 17 La. 478; Dwarris on Statutes, 676; 4 Mann. & R., 586–588; 9 Barn. & C., 750; 12 Moo., 357–359; 4 Moo. & P., 341, 351; 4 Bing., 212.

We consider the court has already construed this statute of 1824 as conferring a special jurisdiction, as well as special remedy. (*United States* v. *Curry*, 6 How., 113. And see 6 Pet., 493, and 11 Id., 165, 166.)

Congress, too, in extending this act of 1824, by the act of 24th May, 1828 (4 Stat. at L., 298), obviously discovers its opinion, that, with the expiration of the law, the jurisdiction also terminated.

And so, too, in repealing the bankrupt laws of 1800 and of 1841. In both instances, Congress inserted a saving clause, to save jurisdiction in cases pending at the time of the repeal; and without which, doubtless, those cases would have fallen with the repeal.

Mr. Gillet said it was not his purpose to controvert the correctness of the positions laid down in the cases cited for the motion. If there was no statute in force conferring jurisdiction upon the Supreme Court, he should not contend that these appeals could be heard. Nor should he insist that the Judiciary Act conferred any such power. It was found in the act of 1824, or did not exist at all. It has been contended, that this act expired in five years from its approval, and was revived June 17, 1844, for five years only, and is not now in force. He denied the correctness of this assumption, and took issue upon it. The second and fifth sections of the act of 1824 contain limitations upon the claimant, as to the time within which the petition shall be presented, and the cause heard and an appeal taken. The residue of the act is without limitation. As a whole, it is as permanent as any other statute. An examination of its provisions, and especially sections 2, 3, 5, 6, 7, and 11, will prove this. The fifth section contains an important limitation, while the seventh contains an important provision applicable to all bonds not determined to belong to claimants. There is no limitation upon the jurisdiction of this court, when a cause is lawfully brought here. The act of 1844 revived and continued in

operation provisions relating to proceedings in the court below only.

But if we are in error in this view of the statute, then these *119] appeals, having removed the causes from the court below, cannot *be sent back to that court. If there is no law empowering this court to hear and determine them, then it has no power to act upon them at all, and it can perform no act which will entitle either party to any advantage which they did not possess, and could not enforce, on the day when the revival act of 1844 expired. To dismiss the appeal, and thereby furnish evidence that the causes had not been lawfully brought here under the act, would lay the foundation for the claimants to contend that it was never properly made, and that they were therefore entitled to patents under the decision of the district judge.

Mr. Johnson (Attorney-General) said, that, if the construction given to these laws upon the other side was correct, the result would be that they could stand upon the decree below as a final decree. But all these land laws did not contemplate that the decree of the court below was to be final, in case either party chose to appeal; and we had obtained an appeal when it was properly taken even upon the showing of the other side, and when this court had undoubted jurisdiction over the case. Let us look into the act of 1824, and then examine what part of it was revived. The dispute is, whether the jurisdiction of this court, when once attached, stopped when five years expired after the passage of the act of 1844. If we had now a case before us arising under the act of 1824 alone, without any other act having been passed, this court could decide it and settle the controversy, provided the appeal had been taken in proper time.

(*Mr. Henderson* said he conceded that.)

Then if the opposite counsel concedes that, I think that the other consequences for which I contend must follow. What was the character of the act of 1824? It describes the claims which are to be presented, the notice to be given, the proceedings to be had, the principles by which the decision is to be governed, and states the reasons for granting an appeal to this court. The claimant had a year to decide whether he would appeal or not. The District Attorney was directed to consult the Attorney-General whether or not an appeal should be taken in case the decision was adverse to the United States. If no appeal was taken, the decree below was final. If the claimant succeeded, a copy of the decree was to be presented to the land office, and he would receive his patent. If he

succeeded by the judgment of this court, he was to present the certificate of the clerk of this court to the land office, before he could receive a patent. But how was this to be done, if the jurisdiction of this court was to cease after the expiration of five years *from the passage of the [*120 act of 1844? It is admitted that, under the act of 1824, the jurisdiction of this court would not have ceased. Therefore, the opposite counsel must contend that the two acts are not alike; and yet the act of 1844 extends the act of 1824 "in the same way, and with the same rights, powers, and jurisdictions to every extent they can be rendered applicable." Suppose a party were to put off the trial of his cause in the court below until a late period, or the court was so pressed with business that the case could not be taken up, or that the District Attorney could not immediately report to the Attorney-General, a decree might be passed for millions which would be irrevocably lost to the government; and yet it is admitted that this would not have been so under the act of 1824. These laws have always looked to a supervision, by this court, of the decree of the District Court; and if the opposite counsel are right, this act of 1844 is an exception to all the laws, and Congress have committed a palpable blunder.

But reliance is placed by the opposite counsel upon the phraseology of the act of 1844, namely, that the act of 1824 is continued in force for the term of five years and *no longer*. What has this court said about the same expression in another law? The act of 24th May, 1828, (4 Stat. at L., 298,) was to continue in force until the 26th of May, 1830, and *no longer;* and yet cases were decided here long after that day. This very question was involved and decided in those cases. If the court had no jurisdiction and the appellate power had expired, all these judgments are void. The titles will be lost to thousands of acres, which are now held under these judgments.

Mr. Chief Justice TANEY delivered the opinion of the court.

A motion has been made to dismiss this case, for want of jurisdiction in this court to hear and decide it.

It appears that a petition was filed by the appellees in the District Court of the United States for the Southern District of Mississippi, pursuant to the acts of Congress of May 26, 1824, and of June 17, 1844, praying to have confirmed to them a large tract of land, which they claimed under a concession or grant which they alleged had been made to their ancestors by the Spanish authorities.

The petition was filed on February 1, 1845, and on the 12th of November, 1847, the district judge passed his decree confirming the concession; and on the same day the United States appealed to this court. The motion is made to dismiss,
*121] *upon the ground that the act of 1844, which extended to the state of Mississippi the act of 1824, and reënacted it as to claims in that state, limited the duration of both acts to five years and no longer, and that both of these acts, so far as concerns such claims, expired on the 17th of June, 1849; and this court having no appellate jurisdiction, unless conferred on it by act of Congress, and having derived the jurisdiction it heretofore exercised in cases of this description altogether from the laws above mentioned, its power in this respect ceased when the laws expired; and there being no act of Congress now in force authorizing it to review the decree of the District Court for the Southern District of Mississippi, the appeal of the United States ought to be dismissed for want of jurisdiction.

It is true that this court can exercise no appellate power over this case, unless it is conferred upon it by act of Congress. And if the laws which gave it jurisdiction in such cases have expired, so far as regards claims in the state of Mississippi, its jurisdiction over them has ceased, although this appeal was actually pending in this court when they expired.[1]

But the court is of opinion that the act of 1824, reënacted by the act of 1844 for the state of Mississippi and the other states mentioned in that law, has not expired so far as regards appeals from the District Courts to this court; that it is still in full force, and unless repealed by Congress will continue in force, until all the appeals regularly brought up from the District Courts shall be finally disposed of.

The act of 1824 originally extended only to the Spanish and French grants in the state of Missouri, and the then territory of Arkansas. It contains no clause limiting generally the duration of the law. The fifth section limits the time within which the claimants may file their petitions to two years, and gives the petitioner three years from the time his petition is brought before the District Court, to prosecute it to a final decision in that court; but by the second section either party may appeal to this court, within twelve months from the time of the final decree in the District Court. And as many of the cases might and most probably would be decided in the latter

[1] FOLLOWED. *McNulty* v. *Batty et al.*, 10 How., 79. CITED. *Railroad Co.* v. *Grant*, 8 Otto, 401.

period of the five years within which the party is required to present his claim and prosecute it to a final decision, it is evident that the jurisdiction of this court to hear and determine the appeal was not intended to be limited to the same period. And as there is no clause of limitation applying to the whole act, nor as to the time within which this court shall exercise the appellate power conferred on it, the act of 1824, in this respect, is a perpetual one; and if any appeal were at this day depending, which had *been regularly brought up from the state of Missouri or the territory of Arkansas, the court would have jurisdiction to hear and decide it. [*122

This construction of the original act of 1824 is, indeed, not disputed. But it is insisted that it is otherwise when taken in connection with the act of 1844, which reënacted it for the states therein mentioned, in one of which this case has arisen. And it is contended that the duration of the whole act of 1824, as thus reënacted, including the appellate jurisdiction of this court, is restricted to five years from the enactment of the law.

This construction cannot be maintained. In expounding a statute, we must not be guided by a single sentence or member of a sentence, but look to the provisions of the whole law, and to its object and policy. And it was evidently the intention of the act of 1844 to place the claims under Spanish and French grants in the states therein mentioned upon precisely the same footing with the claims in Missouri and the territory of Arkansas, and to give the claimants the same rights and remedies, including the right to appeal to this court. For it declares in express terms, that the act of 1824 shall be extended to them, "in the same way, and with the same rights, and powers, and jurisdictions to every extent they can be rendered applicable, as if these states had been enumerated in the original act thereby revived; and the enactments expressly applied to them, as to the state of Missouri." Now, if they had been included in the original act, and the enactments applied to them as to the state of Missouri, it is admitted that the appellate jurisdiction of this court would not be limited to five years. And if it would not, it necessarily follows that it is not limited by the act when reënacted and extended by the law of 1844. For if it were to be so limited, and the jurisdiction of this court ceased in five years, the rights and powers and jurisdictions in relation to the claimants in these states would be different from what they would have been if they had been included in the original law. Such a construction would in effect take away the jurisdiction of this court, and deprive each party of the right to appeal

within twelve months in the cases decided in the last year of the five, and would make the appeal in almost every case inefficient and nugatory. Certainly, there could be no reason of policy or justice for making such a difference in the jurisdiction of this court in different classes of similar cases; nor could such have been intended. The error of the appellees appears to have arisen from what is evidently an inaccuracy of language in the act of 1844, when it speaks, in the beginning of the enacting clause, of "so much of the expired act *123] *of 1824" as related to the state of Missouri. Now the act of 1824, as we have already said, had not expired, and is still in force. But the fifth section of the act, which gave the claimant two years from the date of the law to file his petition, and three more to bring it to a final decision, had expired. And the whole context and provisions of the act of 1844 show that it was the intention of the legislature to revive this portion of the act of 1824, and to give to the claimants in the states there mentioned, as it had given to those in the state of Missouri, five years to establish their claims, and to subject them in other respects also to the same regulations and jurisdictions in prosecuting them in the courts of the United States. And the expression, "so much of the expired act of 1824," should have been, "so much of the act of 1824 as had then expired," in order to make this clause consistent with the residue of the act. This evident inaccuracy ought not, however, to embarrass the court in expounding the act, which, taken altogether, is sufficiently plain in its objects and intention, as well as in its language.

The motion to dismiss this appeal must therefore be overruled.

The cases of *The United States* v. *The Heirs of Powers*, and *The United States* v. *The Heirs of Turner*, stand upon the same grounds, and the motions to dismiss them must therefore be disposed of in like manner.

Order.

On consideration of the motion made by Mr. Henderson, of counsel for the appellees, on a prior day of the present term of this court, to wit, on Friday the 14th instant, to dismiss this cause for the want of jurisdiction, and of the arguments of counsel thereupon had, as well against as in support of the said motion, it is now here ordered by this court, that the said motion be, and the same is hereby, overruled.