dence, where the rule of law requiring the best evidence does not prevent.

It follows from these premises, that when the commission of a postmaster has been signed and sealed, and placed in the hands of the Postmaster General to be transmitted to the officer, so far as the execution is concerned, it is a completed act. The officer has then been commissioned by the President pursuant to the Constitution; and the subsequent death of the President, by whom nothing remained to be done, can have no effect on that completed act. It is of no importance that the person commissioned must give a bond and take an oath, before he possesses the office under the commission; nor that it is the duty of the Postmaster General to transmit the commission to the officer when he shall have done so. These are acts of third persons. The President has previously acted to the full extent which he is required or enabled by the Constitution and laws to act in appointing and commissioning the officer; and to the benefit of that complete action the officer is entitled, when he fulfils the conditions on his part, imposed by law.

We are of opinion, therefore, that Beers was duly commissioned under his second appointment.

For these reasons, we hold the judgment of the Circuit Court to have been erroneous, and it must be reversed, and the cause remanded with directions to award a *venire facias de novo.*

THE UNITED STATES, PLAINTIFFS IN ERROR, *v.* GEORGE N. STEWART. } *In error to the Circuit Court of the United States for the southern district of Alabama.*

Mr. Justice CURTIS.

The opinion of the court, in the preceding case, determines this, and the judgment of the Circuit Court must be reversed, in conformity with that opinion.

SEBASTIAN WILLOT, JOHN MCDONALD, AND JOSEPH HUNN, PLAINTIFFS IN ERROR, *v.* JOHN F. A. SANDFORD.

Where there are two confirmations by Congress of the same land in Missouri, the elder confirmation gives the better title; and the jury are not at liberty, in an action of ejectment, to find that the survey and patent did not correspond with the confirmation.

Titles to lands thus situated could be confirmed; nor were the lands affected by the act of March 3, 1811, providing for the sale of public lands and the final adjustment of land claims.

THIS case was brought up, by writ of error, from the Circuit Court of the United States for the district of Missouri.

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It was an action of ejectment brought by Sandford, a citizen of New York, to recover the following-described premises, viz:

A certain tract of land, containing 750 arpens, more or less, which was claimed by one Antoine Lamarche, as derived to him from the Government of Spain, was surveyed for said Lamarche by John Harvey, a deputy surveyor under the Government of the United States, and the plat of said survey duly certified by said Harvey, under date of December 20, 1805, and the same received for record by Antoine Soulard, surveyor general under the Government of the United States for the Territory of Louisiana, February 27, 1806; which said tract is situate, lying, and being on Lamarche's creek, alias Spencer's run, in St. Charles county, Missouri, and the claim thereto was duly confirmed to the said Antoine Lamarche, or his legal representatives, by an act of Congress entitled "An act confirming claims to lands in the State of Missouri, and for other purposes," approved July 4, 1836.

It is unnecessary to recite the evidences of title set forth upon the trial by the plaintiff and defendants, as they are set forth on both sides in the opinion of the court.

Amongst other rulings of the Circuit Court were the following, viz:

5. That the survey made by the United States surveyor, and on which issued the patent certificate and patent, is evidence of a high character that the land included in the survey is the same as that included in the confirmation to the legal representatives of Dissonet.

6. That said survey is not conclusive evidence that the land confirmed to the legal representatives of Dissonet was correctly located and surveyed by said survey.

7. If the jury, therefore, believe that the land sued for is not within the confirmation to the legal representatives of Dissonet, although it may be within the survey and patent, then such confirmation, survey, and patent, cannot protect said defendants in this suit.

It is not necessary to mention any of the other instructions or rulings of the Circuit Court.

The case was argued by *Mr. Blair* for the plaintiffs in error, and *Mr. Lawrence* for the defendant, upon which side there was also a brief filed by *Mr. Glover.*

Mr. Justice CATRON delivered the opinion of the court.

Peter Chouteau, claiming under one Dissonet, laid before Recorder Bates a claim for 800 arpens of land, situate in St.

Charles county, Missouri. The evidence presented to the recorder was a certificate of a private survey embracing the claim as set up, with proof that Dissonet had inhabited and cultivated the land from 1798 to 1805. The recorder pronounced the claim valid as a settlement right to the extent of 640 acres, and declared that it ought to be surveyed as nearly in a square as might be, so as to include Dissonet's improvements; and, furthermore, that the land should be surveyed at the expense of the United States.

This report was confirmed by Congress, by the act of April 29, 1816. The land was surveyed in 1817, by authority of the United States. A patent certificate was forwarded to the General Land Office by the recorder of land titles at St. Louis, in 1823, and a patent issued on it in 1850. Protection is claimed by the defendants, under the survey and patent.

The jury was instructed by the Circuit Court, that the survey and patent were not conclusive evidence that the land they embraced was correctly located and surveyed according to the confirmation; and if they believed that the land sued for was not within the confirmation of the legal representatives of Dissonet, although it may be within the survey and patent, then the survey and patent would not protect the defendants.

Exceptions were taken to this ruling. The jury found that the official survey did not correspond to the confirmation, but that it was illegally extended so as to interfere with the claim on which the plaintiff relies. His claim is this: In 1805, Antoine Lamarche caused a private survey to be made by Harvey for 750 arpens of land, which he claimed by right of settlement. Lamarche laid his claim before the board of commissioners, but produced no evidence of inhabitation and cultivation; indeed, no evidence at all, except the surveyor's certificate. On coming before the board, in 1811, the claim was of course rejected; and thus it lay until 1833, when the board of commissioners organized under the act of July 9, 1832, took evidence which established the fact to their satisfaction, that Lamarche had inhabited and cultivated the land, and was entitled to a confirmation; and in 1835 they recommended to Congress that the claim ought to be confirmed according to Harvey's survey of 1805; and it was thus confirmed by the act of July 4, 1836.

Harvey's survey covers the land in dispute, which is overlapped on its eastern boundary by the survey and calls of the patent to Dissonet; and within this interference the defendants hold possession.

Up to the date of the confirmation of Lamarche's claim, in

1836, it had no standing in a court of justice. So this court has uniformly held. Les Bois *v.* Brommell, 4 Howard.

In the next place, the United States reserved the power to survey and grant claims to lands in the situation that these contending claims were when confirmed; nor have the courts of justice any authority to disregard surveys and patents, when dealing with them in actions of ejectment. This court so held in the case of West *v.* Cochran, and will not repeat here what is there said.

When the survey of 1817 for Dissonet's land was recognised at the surveyor general's office as properly executed, which was certainly as early as 1823, then Dissonet had a title that he could enforce by the laws of Missouri, and which was the elder and better; it being settled that where there are two confirmations for the same land, the elder must hold it. A more prominent instance to this effect could hardly occur, than that of rejecting the younger confirmation in the case of Les Bois *v.* Brommell, above cited.

The act of 1811, reserving lands from sale which had been claimed before a board of commissioners, has no application to such a case as this one. It was so declared in the case of Menard *v.* Massey, 8 Howard, 309, 310.

It is ordered, that the judgment of the Circuit Court be reversed, and a venire de novo awarded.

ROBERT J. VANDEWATER, APPELLANT, *v.* EDWARD MILLS, CLAIMANT OF THE STEAMSHIP YANKEE BLADE, HER TACKLE, &C.

Maritime liens are *stricti juris*, and will not be extended by construction.

Contracts for the future employment of a vessel do not, by the maritime law, hypothecate the vessel.

The obligation between ship and cargo is mutual and reciprocal, and does not take place till the cargo is on board.

An agreement between owners of vessels to form a line for carrying passengers and freight between New York and San Francisco, is but a contract for a limited partnership, and the remedy for a breach of it is in the common-law courts.

THIS was an appeal from the Circuit Court of the United States for the district of California.

It was a libel, filed originally in the District Court, by Vandewater, against the steamer Yankee Blade, for a violation of the following agreement:

"This agreement, made this twenty-fourth day of September, 1853, at the city of New York, between Edward Mills, as agent for owners of steamship Uncle Sam, and William H.