between the estates or titles of the respective parties to the lands in controversy. Again, suppose the determination be, as it was in this case, in favor of the adverse estate, is the adjudication of no effect? Is it binding only when against this estate? We suppose not.

We have said we have been aided upon this point by the practical construction given to the statute in the proceedings of the Court below. The pleadings put in issue the legal title to the premises in dispute between the parties—each set up a claim to the title and relied solely upon it. The Court of Common Pleas passed upon this title, and upon nothing else, as did the Supreme Court on the appeal. It seems quite clear that both the counsel and the Courts in these proceedings understood the jurisdiction conferred upon them, as we have endeavored to explain it.

The Court of Common Pleas, which decided the question in favor of the plaintiff, not only adjudged that he had the legal title, but that the defendants had not. The Supreme Court, on the appeal, having reversed this judgment, directed that the proceedings be remitted to the Court below, and there be dismissed.

It was a dismissal of the plaintiff's suit upon the merits, and, of course, as conclusive upon the rights of the parties as any other judgment that might have been rendered in the case.

Judgment of the Court affirmed.

THE UNITED STATES *vs.* GRIMES.

1. The assignee of a Mexican title was not prohibited from presenting his case to the Land Commissioners in his own name; and where he was assignee of the whole claim, that was his proper method of proceeding.
2. But where the land claimed was portioned out among many vendees, the proper party to the proceeding was the original grantee, who could produce the documents of title, and who best knew how to establish it.

3. Though the assignee of a portion of a claim is not absolutely estopped by a decree of this Court adverse to the title under which he holds, he cannot expect to shake that decree without producing new evidence which proves it to be erroneous.
4. The Government cannot be required to give two patents for the same land, one to the original claimant and the other to his vendee.
5. Where the original Mexican grantee filed his petition for a confirmation of the title, and several of his assignees petitioned also for the confirmation of the parts conveyed to them, the Commissioners should have consolidated all the cases.
6. It was their duty to establish the boundary as well as validity of the Mexican grant as between the original grantee and the Government, but not to arbitrate the disputes of the several assignees.

Appeal from the District Court of the United States for the Northern District of California.

On the first of March, 1853, Hiram Grimes filed his petition in the California Land Commission, on his own behalf, and as executor of Eliab Grimes, deceased, praying confirmation of a title to certain lands, derived from Mexico through and under John A. Sutter. On the 15th of January, 1856, the Land Commissioners rejected the claim, whereupon Grimes appealed to the District Court. On the 6th of March, 1857, that Court made its decree, reversing the decision of the Land Commission and confirming the title. From this decree the United States appealed. The facts necessary to an understanding of the case are stated in the opinion of the Court.

Mr. Wills, of Washington City, for Appellants.

No counsel appeared for Appellee.

Mr. Justice GRIER. The petitioner is assignee of John A. Sutter "of a part of the place called New Helvetia." Under this name Sutter claimed title to two several grants from the Mexican Government; one for eleven leagues, granted to him by

Juan B. Alvarado on 18th of June, 1841, the other for twenty-two leagues, called his "Sobrante grant," purporting to be issued by Micheltorena at Santa Barbara on the 5th of February, 1845. Many persons had purchased portions of this great tract. A separate application from each of those vendees to the Commissioners for a several confirmation of the portion assigned to him, would have caused great expense, trouble and delay. Accordingly, Sutter, very properly, filed his petition for the confirmation of these two grants, for the benefit of himself and his several assignees. His title has been fully considered and decided by this Court. (See 21 Howard, 178.) The first grant of eleven leagues was adjudged valid, the other was rejected. The patent to Sutter for the eleven leagues will, of course, enure to the benefit of all his vendees. Those who claim under the Sobrante title will take nothing. Whether the portions sold will be found within either or neither of these grants to Sutter, must depend upon surveys made, or to be made, since the confirmation of his grant by this Court. It is true, the assignee of a Mexican title may present his case before the Commissioners; and where he is assignee of the whole claim there may be no impropriety in it. But, if the land claimed has been divided out among a thousand vendees, as in this case, the proper party to the proceeding is the original grantee, who can produce the documents of title and who best knows how to establish it. As in the case of Neleigh, (1 Black., 298), who claimed a part of the grant to Castro, which had been rejected by this Court, we may say, that though the assignee is not absolutely estopped by a decree of the Court to which he was not a party, yet, as he has furnished no new evidence to show that decree erroneous, he cannot expect the Court to change it. If any part of the land for which he has petitioned is within the eleven leagues, the patent which has or will be given to Sutter will confirm his title, and further proceedings in this suit would be wholly superfluous. The Government cannot be required to give two patents for the same land, one to the vendor and another to the vendee. Where there are divers vendees under one original title, and the Mexican grantee has filed his petition before the Commissioners for a

confirmation of his title, and there are others, his assignees who have petitioned also, the Commissioners should have consolidated all the cases. The law does not require them to locate the boundaries of the several grantees or settle any disputes between them, or to give a thousand different patents to every several claimant of a town lot. It is their duty to establish the boundary as well as validity of the Mexican grant as between him and the Government, and not to arbitrate the disputes of the several assignees.

The Court below confirmed the whole claim of the petitioner, because it was within the thirty-three leagues which they had already confirmed to Sutter. But, as that judgment was reversed as to twenty-two leagues, the judgment in this case must have the same course. If any portion of his claim be found within the eleven leagues, he needs no further title; if it does not, he can have none.

The judgment and decree of the Court below is reversed.

ROTHWELL *vs.* DEWEES.

1. Where the surviving partner of an insolvent firm assigned certain lots of ground belonging to the firm for the benefit of its creditors, the heirs of the deceased partner cannot be made parties to a suit involving the title to the lots, on the ground of any relation of trust or confidence subsisting between them and the assignee.
2. Where a party purchases property under the direction of, or on behalf of another, the purchase must be held to be in trust for the benefit of the principal, on repayment of the money advanced by the agent.
3. Where two devisees or tenants in common hold under an imperfect title, and one of them buys in the outstanding title, such purchase will enure to their common benefit upon contribution made to repay the purchase-money.
4. This rule is based upon a community of interest in a common title, creating such a relation of trust and confidence betweer