

## Statement and opinion.

nor in continuation of that proceeding, the case was not one proper for substituted service.\* They were not bound to appear. They entered their appearance specially, and appeared only to object to the jurisdiction of the court.

The learned judge who heard the case below was correct in ordering the bill to be dismissed.

DECREE AFFIRMED.

BOURNE *v.* GOODYEAR.

A proceeding to vacate the extension of a patent, of which the extension has expired before the proceeding was begun, has no equity to support it, and cannot be sustained on demurrer.

APPEAL from the Circuit Court for the Southern District of New York, in which court, on the 15th of June, 1865, a proceeding was begun, in the name of the United States, *ex relatione* Bourne, against the executor of Goodyear, to vacate an extension of a patent. The bill showed that the extension of the patent sought to be vacated by the proceeding expired on the 14th of June, 1865; before the suit was commenced, and the defendant demurred to it on that ground among others. The court below dismissed the bill, and the relator brought the case here.

*Messrs. T. H. Parsons, A. Payne, and C. Cushing, for the appellant; Messrs. E. W. Stoughton and W. E. Curtis, contra.*

The CHIEF JUSTICE delivered the opinion of the court.

The extension having expired before the bill was filed, there is no equity to support the application to set it aside. The extension has ceased to be of any effect, and there remains nothing which can be the subject of a suit. The demurrer to the bill, therefore, must be sustained, and the decree of the Circuit Court by which the bill was dismissed must be

AFFIRMED.

\* *Dunn v. Clarke*, 8 Peters, 1.