

The testimony in the case is quite voluminous. There are, as usual, many contradictions and discrepancies in the statements of the witnesses, even when testifying on the same side. But the principal facts of the case can be clearly discovered. The Rosario, going out behind the Rival, overtook and ran into her through neglect of measures to avoid her which the law called on her master to adopt.

Decree for libelants. Cross-libel dismissed.

Counterfeiting—Essential Allegations.

UNITED STATES *v.* CARLL, U. S. Sup. Ct., Oct. Term, 1881. On certificate of division in opinion between the judges of the circuit court of the United States for the southern district of New York. The indictment was brought under section 5481 of the Revised Statutes. The decision was rendered by the supreme court of the United States on April 24, 1882. Mr. Justice *Gray* delivered the opinion of the court.

In an indictment upon a statute it is not sufficient to set forth the offense in the words of the statute unless those words of themselves fully, directly, and expressly, without any uncertainty or ambiguity, set forth all the elements necessary to constitute the offense intended to be punished; and the fact that the statute in question, read in the light of the common law and of other statutes on the like matter, enables the court to infer the intent of the legislature, does not dispense with the necessity of alleging all facts necessary to bring the case within that intent. The offense at which the statute is aimed is similar to the common-law offense of uttering a forged or counterfeit bill, and knowledge that the instrument is forged and counterfeited is essential to make out the crime, and the omission to allege that the defendant knew the instrument which he uttered to be false, forged, and counterfeit, fails to charge him with any crime.

S. F. Phillips, Solicitor General, for the United States.

William C. Roberts, for accused.

Cases cited in opinion: *U. S. v. Cruikshank*, 92 U. S. 542; *U. S. v. Simmons*, 96 U. S. 360; *Com. v. Clifford*, 8 Cush. 215; *Com. v. Bean*, 14 Gray, 52; *Com. v. Filburn*, 119 Mass. 297.

Practice—Rehearing.

CHICAGO, D. & V. R. Co. and others *v.* FOSDICK, U. S. Sup. Ct., Oct. Term, 1881. Appeal from the circuit court of the United States for the northern district of Illinois. On petition for a rehearing. The decision was rendered by the supreme court of the United States on May 8, 1882. Mr. Justice *Matthews* delivered the opinion of the court, granting the application, on the ground that the record on which the case was decided was not complete.

Lawrence, Campbell & Lawrence and Henry Crawford, for the petition.

THOMPSON v. ALLEN COUNTY and others.*

(Circuit Court, D. Kentucky. July 28, 1882.)

1. TAXES—COLLECTION BELONGS TO THE STATE—UNITED STATES COURTS CANNOT COLLECT THROUGH A RECEIVER.

The collection of a public tax as much belongs to the authority of the state as its levy and assessment. The tax, when assessed, although levied for a specific purpose, is not a fund which can be dealt with by a court as an equitable asset or chose in action subject to an implied trust, and United States courts have no power to appoint a receiver to collect such taxes even where there is no state officer to perform that duty; per MATTHEWS, Justice; BAXTER, C. J., dissenting.

2. SAME—CASE STATED.

Complainant holds an unsatisfied judgment against the defendant Allen county. A special tax to pay his judgment was levied in pursuance of a *mandamus*. The statute authorizing the tax provided that it should be collected by a collector appointed for that purpose by the county court. In answer to a *mandamus* requiring the appointment of such collector, it appeared that no suitable person could be found who was willing to accept the appointment. Upon bill in equity filed in the United States circuit court to obtain relief by the collection of these taxes and their application to the payment of the complainant's judgment through a receiver or other agency of the court, *held*, by MATTHEWS, Justice, that the court had no jurisdiction to grant the relief prayed for. BAXTER, C. J., dissented.

In Equity.

The facts were as follows:

In 1869 the Kentucky legislature chartered the Cumberland & Ohio Railroad Company. Its proposed line of road passed through Allen county, defendant in this suit. The charter authorized any county through which such proposed road should pass to subscribe for stock in said company, and to issue and sell its bonds to pay for such stock. The county subscribed for a large amount of stock, and in payment issued its bonds to the company, which sold them. The charter of the company provided that the county court of any county issuing bonds was "authorized and required to levy annually, and collect, a tax upon the taxable property in their county, as listed and taxed under the revenue laws of this state—a sum sufficient to pay the interest on said bonds as it accrues, together with the costs of collecting the same;" and also to levy and collect a tax to pay the principal of the bonds. It was further provided that "the county court * * * may appoint collectors for said tax, or may require the sheriffs of the respective counties within the jurisdiction of the same to collect said tax; all of whom shall have the same powers and remedies, and shall proceed in the same way, for the collection of said tax as the sheriffs in the collection of the state revenue." It also provides for the time when the sheriff shall pay over the taxes so collected, and his rate of com-

*Reported by J. C. Harper, Esq., of the Cincinnati bar.