to do the one as the other. We are of opinion that the arrest of these parties was illegal for the reasons above given, and direct their discharge from custody.

In re CORCORAN.

(Circuit Court, N. D. California. August 19, 1889.)

PENITENTIARY—COMMUTATION OF SENTENCE.

Act Cong. March 3, 1875, (Rev. St. U. S. Supp. 184,) which provides for commutation for good behavior for persons convicted under United States laws and confined in "any prison or penitentiary" of a state which has no system of commutation, does not apply to persons confined in county jails or other places of temporary confinement.

At Law.

Application of Richard Corcoran for writ of *habeas corpus.* The act of March 3, 1875, referred to in the opinion, provides that "all prisoners convicted of any offense against the laws of the United States, and confined in execution of the sentence upon such conviction in any prison or penitentiary of any state or territory which has no system of commutation for its own prisoners," shall have certain deductions from their sentences for good behavior.

Before SAWYER, Circuit Judge, and SABIN, District Judge.

SAWYER, J. We are of opinion that the words "any prison or penitentiary" in the act of March 3, 1875, (1 Supp. Rev. St. 184,) means state-prison or penitentiary, and does not include county jails, or places employed for temporary confinement, or confinement for short periods for petty offenses. In some states the place of confinement, in punishment of the higher grade of offenses, is called a "state-prison," and in others a "penitentiary," and congress recognized this fact in providing for credits in this act. The act supersedes the the similar provision in sections 5543 and 5544, Rev. St., in which the words "jail or penitentiary" are used. This change in the language is significant, and indicates an intention to limit credits to those state-prisons and penitentiaries properly so called. This view renders it unnecessary for us to express our opinion upon the constitutionality of the state act allowing credits, a question which more properly belongs to the state supreme court to decide. Let the writ be denied.

NATIONAL CASH-REGISTER CO. *v.* AMERICAN CASH-REGISTER CO., (two cases.)[1]

(Circuit Court, E. D. Pennsylvania. June 2, 1891.)

1. PATENTS FOR INVENTIONS—NOVELTY—CASH REGISTER.
The claim embraced the old elements in a cash-register of keys, key-levers, and rods, each provided with a shoulder, and carrying an indicating tablet, and a supporting bar yieldingly held against the key-levers, and pressed back by the shoulder of a rod when raised, and springing back under it, and upholding it by catching under the shoulder, and depended for its novelty upon the element of a connecting train of mechanism common to the whole series of keys, and interposed between them and the supporting bar, to move the bar away from the shoulders further than it would be moved by the shoulders of the rising rods. Pivoted latches, one for each tablet, had previously been used to move the supporting bar away further from the shoulders than could be done by the shoulders themselves. *Held*, as the combination gave new capabilities to the device, and was new, the claim embraced patentable novelty.

2. SAME—INFRINGEMENT.
The patent claimed, in combination with a number of other elements, each old, a supporting wing and connecting mechanism, common to all the keys, and interposed between them and the "supporting wing," whereby, by the motion of any key, the wing will be moved back, and the disengagement of the shoulder of any key remaining up secured, and the wing allowed to spring back to catch under the shoulder of the rising key. This mechanism consisted of a bar, held up beneath the front ends of the key-levers; an arm at either end of the bar pivoted to give it a rising and falling motion; a trigger; a link connecting the bar and trigger; an L-bar bearing against the "wing;" and a trip, provided with a shoulder, and catching onto the L-bar, against which shoulder the trigger works. The defendant replaced the "wing" by a transverse inclined faced supporting bar, working in guides at its ends, and yieldingly impelled towards the upholding bars; and his connecting mechanism consisted of a cross-bar, lifted by the key, and falling when the key was released; a vertically sliding bar connected therewith, and having at its upper end a lateral projection engaging with a trip on the bell crank lever which bears against the supporting bar. *Held*, that defendant infringed.

3. SAME.
In a suit in another circuit against another respondent on the claim in suit here, the respondent's "plate and connecting devices" had been held not equivalents of the corresponding devices of complainant's patent. *Held* that, as upon an examination of the former respondent's device obvious differences between it and the present defendant's device appeared, the court would not particularize the points of distinction, but would decide independently on the question of infringement here presented.

4. SAME—EXTENT OF CLAIM.
A clause in the specification stated that "the elbow, (shoulder,) *d*, of the rod in rising aids in pressing back the wing, I." The claim contained no suggestion that the shoulder and the connecting mechanism operated simultaneously to press back the wing. The complainant's expert testified that such simultaneous action was, for any length of time, impossible. *Held*, the claim is not to be restricted to mechanism operating simultaneously with the shoulders to move back the wing, I.

5. SAME—INFRINGEMENT—FORMER ADJUDICATION.
The third claim of patent to Campbell, No. 253,506, for a cash-register, was adjudicated in another circuit, (*National Cash-Register Co.* v. *Boston Cash-Indicator & Recorder Co.*, 45 Fed. Rep. 481,) and no such distinction appears between the device there and the present respondent's device as would justify a different determination, and the former decision will be followed, and the device declared not to infringe.

In Equity.

Peck & Rector and *Lysander Hill*, for complainant.

Earnest Howard Hunter and *John R. Bennett*, for respondent.

[1] Reported by Mark Wilks Collet, Esq., of the Philadelphia bar.