words of the advice or method of procurement employed should be set forth; but, for the reasons stated in U. S. v. McCabe, 58 Fed. Rep. 557, I think it is necessary to state the election district, and the counts for advising are bad because the place of registration is not stated. The counts for procuring are bad for using the word "register," instead of stating acts done by Brown with intent to effect a fraudulent registration. Let judgment be entered for the defendant upon the demurrer.

WARREN v. UNITED STATES.

(Circuit Court of Appeals, First Circuit. November 8, 1893.)

No. 35.

IMMIGRATION—DETENTION AND RETURN OF UNLAWFUL PASSENGERS—DUTY OF VESSEL'S OFFICERS.

Under section 10 of the immigration act of 1891, (26 Stat. 1086,) the agent of a vessel, who is ordered to detain on board and return certain immigrants unlawfully brought to this country, is bound to so detain them at all hazards, and will only be relieved therefrom by vis major, or inevitable accident. The word "neglect" in the provision for a penalty in case of "neglect to detain" is used in the popular sense of "fail" or "omit."

In Error to the Circuit Court of the United States for the District of Massachusetts.

At Law. Indictment of Frederick Warren for violation of the immigration law of March 3, 1891. Defendant was convicted in the court below, and brings the case here on writ of error. Affirmed.

Benjamin L. M. Tower, (Joshua D. Ball, on the brief,) for plaintiff in error.

Frank D. Allen, U. S. Atty., (Henry A. Wyman, Asst. U. S. Atty., on the brief.)

Before COLT and PUTNAM, Circuit Judges, and WEBB, District Judge.

WEBB, District Judge. This case arises on the rulings of the circuit court at the trial of an indictment under section 10 of the act of March 3, 1891, (26 Stat. 1086.) The plaintiff in error admitted that certain aliens, who are named in the indictment, embarked for the United States from a foreign port upon a certain vessel called the Kansas, and did therefore unlawfully come to the United States upon and by means of said vessel; that upon their arrival he was the agent of said vessel at Boston, and was then and there duly notified, in accordance with the laws of the United States, by the superintendent of immigration, that the said aliens, naming each, were then and there likely to become a public charge in the said United States, and were not then and there entitled, under the laws of the United States, to be admitted into the said United States; that the said Warren was then and there, as agent of the said vessel, by the superintendent of immigration, duly notified and ordered to

detain the said aliens, who, in this notice and order, were respectively named, and to immediately return them, and each of them, upon the same vessel, to the foreign port or ports from which they had come to the United States. He also admitted that he did not in fact detain on board the same vessel, the Kansas, the aliens named in the indictment, and did not in fact return them to the port from which they came, but that they escaped from said vessel. No objection was made to the sufficiency of the indictment.

At the trial, after making the aforesaid admissions, the defendant offered evidence to prove that there was no negligence or neglect in detaining the said aliens, and that they escaped without any negligence or neglect on his part. This evidence was excluded as immaterial, to which ruling the exception of the defendant was duly taken and allowed. The court further ruled that the defendant was bound at his peril, and at all hazards, to detain the aliens on board the said vessel, and that nothing would relieve him of his obligation to do so, except vis major or inevitable accident. To this ruling also exception was allowed. The defendant did not pretend that the escape was through inevitable accident or vis major.

The correctness of these rulings is now the only matter for consideration, and it is evident, if the ruling that nothing short of vis major or inevitable accident would relieve from the duty to detain and return the aliens, the evidence offered, of the absence of neglect or negligence, was immaterial, and was properly excluded. So this case in fact presents only a single question: Was the ruling as to the duty of the defendant right? For the determination of this question it becomes necessary to examine the whole of chapter 551 of the Statutes of 1891, on the tenth section of which the indictment is based. Such examination clearly shows that the aim and purpose of the act, and the inflexible intention of congress, were to protect the health, the morals, and the safety of the people of this country by the absolute exclusion of immigrants who might endanger the welfare of the community in any of these respects. The first section specifically enumerates the classes of aliens to be excluded, and among those specified are "persons likely to become a public charge." Section 2 forbids the settlement, compromise, or discontinuance of proceedings for violation of another act relating to the importation and migration of foreigners under labor contracts. Section 3 relates to advertisements printed or published in foreign countries for the assistance or encouragement of immigration. Section 4 denounces penalties against owners of vessels who shall solicit, invite, or encourage the immigration of any alien into the United States. Section 5 is merely amendatory of the act of February 26, 1885. Section 6 makes subject to a fine of $1,000, or imprisonment not exceeding one year, or both, any person who shall bring into or land in the United States, or who shall aid in so doing, any person not lawfully entitled to enter the United States. Section 7 provides for the appointment of a superintendent of immigration, and makes him an officer in the treasury department, under the control and supervision of the secretary of the treasury. Section 8 provides that upon the arrival by water of alien immi-