

things, repealed that section, but contained a saving clause (section 161), which declared that the repeal should not affect or impair any act done or right accruing or acquired under or by virtue of any law thereby repealed, but that the same might be asserted and enforced as fully and to the same extent as though there had been no repeal.

The agreement to execute a mortgage, and the right acquired by the mortgagee to have it executed, were founded upon the power delegated to the corporation by the repealed law, and by the saving clause were not to be affected or impaired in any way. The provision imposing new conditions upon the execution of corporate mortgages must be construed harmoniously with the saving clause, and, thus read, is apparently not intended to apply to mortgages the right to which had accrued, and which, therefore, in contemplation of a court of equity, were already executed.

These views lead to the conclusion that the mortgages of the Atlantic Trust Company are in all respects valid and effectual, and entitle it to the proceeds in the registry of the court.

The decree of the district court is therefore affirmed, with costs.

In re BREEN.

(Circuit Court, S. D. New York. March 31, 1896.)

1. EXTRADITION—EVIDENCE—CERTIFICATION BY AMERICAN AMBASSADOR.

The certificate of the American ambassador to Great Britain that the papers containing the evidence in relation to the commission of the crime by the person held for extradition "are properly and legally authenticated, so as to entitle them to be received in evidence for similar purposes by the tribunals of Great Britain," is in proper form, and the documents are to be received as competent evidence.

2. SAME—PROCEEDINGS BEFORE COMMISSIONER.

The old doctrine, that proceedings for the extradition of an alien are to be conducted with extreme technicality, has been abandoned. The proceedings before the commissioner are not to be treated as if it were a trial before a petit jury.

3. SAME—EMBEZZLEMENT—EVIDENCE.

Where the extradition papers show that the party charged received checks for money due a municipality, and deposited them in bank to the credit of the corporation, but that he accounted for only a part thereof, this is sufficient proof of embezzlement to warrant delivering him up, and it is immaterial whether the amount unaccounted for, as testified to, was greater or less than the amount charged.

This was an application by David Breen, who is held for extradition to Great Britain, for a writ of habeas corpus.

Joseph L. Keane, for petitioner.

Chas. Fox, for the British government.

LACOMBE, Circuit Judge. The certificate of the American ambassador that the papers "are properly and legally authenticated, so as to entitle them to be received in evidence for similar purposes by the tribunals of Great Britain," is in proper form.

The only other question left is whether, accepting the documents as competent evidence, there was proof before the commissioner tending to show that the prisoner had been guilty of the offense of embezzlement within the meaning of the treaty. Such proof there undoubtedly was. Persons in a position to know testified that he received checks from a Mr. Begg for money due as market rent to the corporation of the city of Dublin; that those checks, indorsed by him, either with his full name or his initials, were deposited in bank to the credit of the corporation; that the total deposits so made by him, including these checks, aggregated some £5,102, but that the amount he received for market rent, exclusive of the Begg checks was also £5,102, and that for £5,102 only did he account. Whether the amount thus unaccounted for, as testified to, was greater or less than the amount charged, is immaterial.

The old doctrine, that proceedings for the extradition of an alien are to be conducted with extreme technicality, has long since been abandoned. The investigation before the commissioner is not to be treated as if it were a trial before a petit jury.

Writ dismissed, and prisoner remanded.

UNITED STATES v. LAMKIN.

(Circuit Court, E. D. Virginia. April 8, 1896.)

No. 755.

1. VIOLATION OF POSTAL LAWS—OBSCENE LETTERS—CONSTRUCTION OF STATUTE.

If an act of congress denounces the mailing of letters containing obscene language (Rev. St. § 3893, as amended in Supp. Rev. St. p. 621), and does not also denounce the mailing of letters written for an obscene purpose, then an indictment founded on letters containing no obscene language, and charging only obscenity of purpose, cannot be maintained.

2. SAME.

There is no federal statute providing a punishment for the mailing of letters which are free from lewd and indecent language, expressions, or words, although they may have been written for the purpose of seduction, or to obtain meetings for immoral purposes.

This was an indictment against Zephania G. Lamkin, for violating the statute prohibiting the mailing of obscene letters (Rev. St. § 3893, as amended by Supp. Rev. St. p. 621). The indictment was found in the district court, from which it was transferred to this court. The case was heard on a motion to quash.

The following are the letters on which the indictment was founded:

Letter No. 1.

Monday, 6:30 p. m.

Miss Lena: Why did you fail to meet me as you promised? See me Tuesday at one and a half at corner Twenty-Third and Grace, and explain to me.
Your Friend.

Letter No. 2.

Miss Lena: Don't get angry with me for writing to you, but I think you have treated me badly after you promised to meet me, and failed to do so. If you had not wanted to meet me, you could of told me so, and all would of been well. I have been a friend to you, and will still be so, but I want you