This is nothing more than an agreement for a special and limited partnership in the business of transporting freight and passengers between New York and San Francisco, and the mere fact that the transportation is by sea, and not by land, will not be sufficient to give the court of admiralty jurisdiction of an action for a breach of the contract. It is not one of those to which the peculiar principles or remedies given by the maritime law have any special application, and is the fit subject for the jurisdiction of the common-law courts.

The decree of the Circuit Court is therefore affirmed.

THE UNITED STATES, APPELLANTS, *v.* THE BRIG NEUREA, HER TACKLE, &c., WILLIAM KOHLER, CLAIMANT.

Where a libel for information, praying the condemnation of a vessel for violating the passenger law of the United States, states the offence in the words of the statute, it is sufficient.

THIS was an appeal from the District Court of the United States for the northern district of California.

The case presented a general demurrer to the following libel for information:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA. IN ADMIRALTY.

To the Hon. Ogden Hoffman, Jr., Judge of the District Court of the United States for the Northern District of California:

The libel of Samuel W. Inge, attorney of the United States for the northern district of California, who prosecutes on behalf of the said United States against the brig Neurea, and against all persons intervening for their interest therein, in a cause of forfeiture, alleges and informs as follows:

1. That Richard P. Hammond, Esq., collector of the customs for the district of San Francisco, heretofore, to wit, on the thirty-first day of August, in the year of our Lord eighteen hundred and fifty-four, at the port of San Francisco, and within the northern district of California, on waters that are navigable from the sea by vessels of ten or more tons burden, seized as forfeited to the use of the said United States the said brig Neurea, being the property of some person or persons to the said attorney unknown.

2. That one Kohler, master of the said brig Neurea, which is a vessel owned wholly or in part by a subject or subjects of

the kingdom of Sweden, did on the first day of June, in the year of our Lord eighteen hundred and fifty-four, at the foreign port of Hong Kong, in China, take on board said vessel two hundred and sixty-three passengers, which was a greater number of passengers than in the following proportion to the space occupied by them and appropriated for their use on board said vessel, and unoccupied by stores or other goods not being the personal luggage of such passengers, that is to say, on the lower deck or platform, one passenger for every fourteen clear superficial feet of deck, with intent to bring said passengers to the United States of America, and did leave said port with the same; and afterwards, to wit, on the twenty-sixth day of August, in the year of our Lord eighteen hundred and fifty-four, did bring the said passengers, being two hundred and sixty-three in number, on board the said vessel, to the said port of San Francisco, within the jurisdiction of the United States, and that the said passengers so taken on board of said vessel, and brought into the United States as aforesaid, did exceed the number which could be lawfully taken on board and brought into the United States as aforesaid, as limited by the first section of the act of Congress approved February 22, 1847, entitled "An act to regulate the carriage of passengers" "in merchant vessels," to the number of twenty in the whole, in violation of the act of Congress of the United States in such cases made and provided, and that by force and virtue of the said acts of Congress, in such case made and provided, the said vessel became and is forfeited to the use of the said United States.

And the said attorney saith, that by reason of all and singular the premises aforesaid, and by force of the statute in such case made and provided, the aforementioned vessel became and is forfeited to the use of the said United States.

Lastly, that all and singular the premises aforesaid are true, and within the admiralty and maritime jurisdiction of the United States and of this court.

Wherefore the said attorney prays the usual process and monition of this court in this behalf to be made, and that all persons interested in the said vessel may be cited in general and special to answer the premises, and all due proceedings being had, that the said vessel may be, for the causes aforesaid and other appearing, be condemned by the definitive sentence and decree of this court, as forfeited to the use of the said United States, according to the form of the statute of the said United States in such case made and provided.

The act of Congress referred to will be found in 9 Stat. at Large, 127.

The court below sustained the demurrer and dismissed the libel, from which decree the United States appealed.

It was argued for the United States by *Mr. Cushing*, (Attorney General.)

Mr. Justice GRIER delivered the opinion of the court.

The Swedish brig Neurea was seized by the collector of customs at San Francisco, as forfeited to the United States under the passenger act of 1847. The record in this case exhibits the libel for information, filed on behalf of the United States, a demurrer thereto by the claimant, and a decree of the court below dismissing the libel. The appeal, therefore, brings under review the question of the sufficiency of the libel.

The claimant sets forth the following grounds of demurrer:

1. That the said libel states no sufficient cause of condemnation of said ship.

2. Because the said libel states no offence against the laws of the United States.

3. Because the said libel does not aver that the excess of passengers carried or imported on said ship were so carried or imported on the lower deck of said brig, or the orlop deck thereof.

4. Because the facts stated in said libel do not constitute a violation of the passenger act of the United States of 1847, or any other law of the United States.

The first, second, and fourth, are but different forms of the same general assertion, "that the libel states no offence."

The third, which is more specific, objects to the libel for want of an averment that the passengers were carried on the lower deck.

An information for forfeiture of a vessel need not be more technical in its language, or specific in its description of the offence, than an indictment. As a general rule, an indictment for a statute offence is sufficient, if it describe the offence in the very words of the statute. The exceptions to this rule are, where the offences created by statute are analogous to certain common-law felonies or misdemeanors, where the precedents require certain technical language, or where special averments are necessary in the description of the particular offence, in order that the defendant may afterwards protect himself under the plea of *autrefois acquit* or *convict*. (See on this subject United States *v.* Gooding, 12 Wheaton, 474.)

The offence created by the statute on which this libel is founded has no analogy to any particular common-law crime. If, therefore, the libel sets forth the offence in the words of

the statute which creates it, with sufficient certainty as to the time and place of its commission, it is all that is necessary to put the claimant on his defence.

The object of the act in question is the protection of the health and lives of passengers from becoming a prey to the avarice of ship owners. In order to test the sufficiency of the libel, it will be necessary to set forth at length the two sections under which it was framed:

The first section provides, that no master "shall take on board such vessel, at any foreign port or place, a greater number of passengers than in the following proportion to the space occupied by them and appropriated to their use, and unoccupied by stores or other goods not being the personal baggage of such passengers, that is to say, on the *lower deck or platform*, one passenger for every fourteen clear superficial feet of deck, if such vessel is not to pass within the tropics during such voyage; but if such vessel is to pass within the tropics during such voyage, then one passenger for every twenty such clear superficial feet of deck; and on the orlop deck, (if any,) one passenger for every thirty such superficial feet in all cases, with intent to bring such passengers into the United States of America, and shall leave such port, or place, with the same, and bring the same, or any number thereof, within the jurisdiction of the United States aforesaid, or if any such master of vessel shall take on board of his vessel, at any port or place within the jurisdiction of the United States aforesaid, any greater number of passengers than the proportions aforesaid admit, with the intent to carry the same to any foreign port or place, every such master shall be deemed guilty of a misdemeanor, and upon conviction thereof before any circuit or district court of the United States aforesaid, shall, for each passenger taken on board beyond the above proportions, be fined in the sum of fifty dollars, and may also be imprisoned for any term not exceeding one year: *Provided*, that this act shall not be construed to permit any ship or vessel to carry more than two passengers to every five tons of such ship or vessel."

"Sec. 2. That if the passengers so taken on board such vessel, and brought into, or transported from, the United States aforesaid, shall exceed the number limited by the last section, to the *number of twenty in the whole*, such vessel shall be forfeited to the United States aforesaid, and be prosecuted and distributed as forfeitures are under the act to regulate duties on imports and tonnage."

Now, the libel conforms strictly to the requirements of this act.

It avers, that the master "took on board the Neurea at

Hong Kong, in China, on the 1st of June, 1854, two hundred and sixty-three passengers. That this was a greater number than in proportion to the space occupied by them, viz: "on the lower deck or platform" one passenger for every fourteen clear superficial feet, with intent to bring said passengers to the United States. That he afterwards, viz: on the 26th day of August, did bring them on said vessel to the port of San Francisco. That the passengers so taken on board and brought into the United States did exceed the number which could be lawfully taken, to the number of twenty in the whole, &c.

The act does not require an averment that the passengers "were carried or imported on the lower deck or the orlop deck."

The libel sets forth every averment of time, place, numbers, intention, and act, in the very words of the statute. It was not necessary to specify the precise measurement of the deck, or to show by a mathematical calculation its incapacity; nor to state the sex, age, color, or nation, of the passengers; nor how many more than twenty their number exceeded the required area on deck. All these particulars were matters of evidence, which required no special averment of them to constitute a complete and technical description of the offence.

The decree of the District Court is therefore reversed, and record remitted for further proceedings.

WILLIAM H. SEYMOUR AND LAYTON S. MORGAN, PLAINTIFFS IN ERROR, *v.* CYRUS H. MCCORMICK.

The act of Congress passed on the 3d of March, 1837, (5 Stat. at L., 194,) provides that a patentee may enter a disclaimer, if he has included in his patent what he was not the inventor of; but if he recovers judgment against an infringer of his patent, he shall not be entitled to costs, unless he has entered a disclaimer for the part not invented.

It also provides that if a patentee unreasonably neglects or delays to enter a disclaimer, he shall not be entitled to the benefit of the section at all.

In 1845, McCormick obtained a patent for improvements in a reaping machine, in which, after filing his specification, he claimed, amongst other things, as follows, viz:

"2d. I claim the reversed angle of the teeth of the blade, in manner described.

"3d. I claim the arrangement and construction of the fingers, (or teeth for supporting the grain,) so as to form the angular spaces in front of the blade, as and for the purpose described."

These two clauses are not to be read in connection with each other, but separately. The first claim, viz: for "the reversed angle of the teeth of the blade," not being new, and not being disclaimed, he was not entitled to costs, although he recovered a judgment for a violation of other parts of his patent.

Under the circumstances of the case, the patentee was not guilty of unreasonable neglect or delay in making the disclaimer, which is a question of law for the court to decide.