first Court of Claims, and heard and decided there, and the amount found due paid by the government. Now, we suppose that it would be an error in the Court of Claims, as at present constituted, with power to render judgment against the government, to hear and revise the allowance of a claim already heard and decided upon by Congress, or by the former Court of Claims, and payment made, even if the claimant was not satisfied. And, we think, it is equally error, in the present case, upon the same principle and for the same reasons.

Indeed, unless the claimant is barred, under the circumstances stated, it would be difficult for the government to determine when there would be an end to claims put forth against it, as there is no statute of limitations, of which we are aware, applicable to them before this court.

The judgment of the court is, that the decree must be REVERSED, the cause remanded, with directions to enter a decree

DISMISSING THE PETITION.

UNITED STATES v. KIRBY.

1. The temporary detention of the mail, caused by the arrest of its carrier upon a bench warrant, issued by a State court, of competent jurisdiction, upon an indictment found therein for murder, is not an obstruction or retarding of the passage of the mail, or of its carrier, within the meaning of the ninth section of the act of Congress of March 3, 1825, which provides "that, if any person shall knowingly and wilfully obstruct or retard the passage of the mail, or of any driver or carrier, or of any horse or carriage carrying the same, he shall, upon conviction, for every such offence pay a fine not exceeding one hundred dollars."
2. That section applies only to those who know that the acts performed by them, obstructing or retarding the passage of the mail, or of its carrier, will have that effect, and perform them with the intention that such shall be their operation.
3. When the acts which create the obstruction are in themselves unlawful, the intention to obstruct will be imputed to their author, although to attain other ends may have been his primary object. The statute has

Statement of the case.

no reference to acts lawful in themselves, from the execution of which a temporary delay to the mails unavoidably follows.

4. Though all persons in the public service are exempt, as a matter of public policy, from arrest upon civil process while thus engaged; the rule is different when the process is issued upon a charge of felony. Every officer of the United States is responsible to the legal tribunals of the country, and to the ordinary processes for his arrest and detention when accused of felony, in the forms prescribed by the Constitution and laws.

5. All laws should receive a sensible construction. General terms should be so limited in their application as not to lead to injustice, oppression, or an absurd consequence, and it will always be presumed that the legislature intended exceptions to its language, which would avoid results of this character.

THE defendants were indicted for knowingly and wilfully obstructing and retarding the passage of the mail and of a mail carrier, in the District Court for the District of Kentucky. The case was certified to the Circuit Court for that district.

The indictment was founded upon the ninth section of the act of Congress, of March 3, 1825, "to reduce into one the several acts establishing and regulating the post office department," which provides "that, if any person shall knowingly and wilfully obstruct or retard the passage of the mail, or of any driver or carrier, or of any horse or carriage carrying the same, he shall, upon conviction, for every such offence, pay a fine not exceeding one hundred dollars; and if any ferryman shall, by wilful negligence, or refusal to transport the mail across the ferry, delay the same, he shall forfeit and pay, for every ten minutes that the same shall be so delayed, a sum not exceeding ten dollars."*

The indictment contained four counts, and charged the defendants with knowingly and wilfully obstructing the passage of the mail of the United States, in the district of Kentucky, on the first of February, 1867, contrary to the act of Congress; and with knowingly and wilfully obstructing and retarding at the same time in that district, the passage of one Farris, a carrier of the mail, while engaged in the performance of his duty; and with knowingly and wilfully re-

* 4 Stat. at Large, 104.

tarding at the same time in that district, the passage of the steamboat General Buell, which was then carrying the mail of the United States from the city of Louisville, in Kentucky, to the city of Cincinnati, in Ohio.

To this indictment the defendants, among other things, pleaded specially to the effect, that at the September Term, 1866, of the Circuit Court of Gallatin County, in the State of Kentucky, which was a court of competent jurisdiction, two indictments were found by the grand jury of the county against the said Farris for murder; that by order of the court bench warrants were issued upon these indictments, and placed in the hands of Kirby, one of the defendants, who was then sheriff of the county, commanding him to arrest the said Farris and bring him before the court to answer the indictments; that in obedience to these warrants he arrested Farris, and was accompanied by the other defendants as a posse, who were lawfully summoned to assist him in effecting the arrest; that they entered the steamboat Buell to make the arrest, and only used such force as was necessary to accomplish this end; and that they acted without any intent or purpose to obstruct or retard the mail, or the passage of the steamer. To this plea the district attorney of the United States demurred, and upon the argument of the demurrer two questions arose:

First. Whether the arrest of the mail-carrier upon the bench warrants from the Circuit Court of Kentucky was, under the circumstances, an obstruction of the mail within the meaning of the act of Congress.

Second. Whether the arrest was obstructing or retarding the passage of a carrier of the mail within the meaning of that act.

Upon these questions the judges were opposed in opinion, and the questions were sent to this court upon a certificate of division.

Mr. Ashton, Assistant Attorney-General, for the United States:

There are authorities which perhaps favor the position of the government, that the arrest of the carrier of the mail

under the warrant, was an obstruction of the mail and of the carrier thereof, within the intent and meaning of the act of Congress. *United States* v. *Barney*,* decided by Winchester, J., in Maryland district, in 1810, is in that direction. The indictment was under an act in the same words as the act of 1825. The detention was by an innkeeper, under a lien for the keeping of the horses employed in carrying the mail; and the court held that the defendant was not justified. The court says:

"The statute is a general prohibitory act. It has introduced no exceptions. The law does not allow any justification of a *wilful* and *voluntary* act of obstruction to the passage of the mail," etc.

So in *United States* v. *Harvey*,† where the indictment (which was under the act of 1825) was against a constable for arresting the mail-carrier under a warrant in an action of trespass, Taney, C. J., held that the mere *serving* of the warrant would not render the party liable; yet "if by serving the warrant he *detained* the carrier, he would then be liable."

Contrary, however, to these decisions, is the ruling of Mr. Justice Washington in *United States* v. *Hart*.‡ In that case it was held that the act of Congress was not to be construed so as to prevent the arrest of the driver of a carriage in which the mail is carried, when he is driving through a crowded city at an improper rate.

No opposing counsel.

Mr. Justice FIELD, after stating the case, delivered the opinion of the court, as follows:

There can be but one answer, in our judgment, to the questions certified to us. The statute of Congress by its terms applies only to persons who "knowingly and wilfully" obstruct or retard the passage of the mail, or of its carrier; that is, to those who know that the acts performed will have

* 3 Hall's American Law Journal, 128.

† 8 Law Reporter, 77.

‡ 1 Peters's Circuit Court, 390.

that effect, and perform them with the intention that such shall be their operation. When the acts which create the obstruction are in themselves unlawful, the intention to obstruct will be imputed to their author, although the attainment of other ends may have been his primary object. The statute has no reference to acts lawful in themselves, from the execution of which a temporary delay to the mails unavoidably follows. All persons in the public service are exempt, as a matter of public policy, from arrest upon civil process while thus engaged. Process of that kind can, therefore, furnish no justification for the arrest of a carrier of the mail. This is all that is decided by the case of the *United States* v. *Harvey*,* to which we are referred by the counsel of the government. The rule is different when the process is issued upon a charge of felony. No officer or employee of the United States is placed by his position, or the services he is called to perform, above responsibility to the legal tribunals of the country, and to the ordinary processes for his arrest and detention, when accused of felony, in the forms prescribed by the Constitution and laws. The public inconvenience which may occasionally follow from the temporary delay in the transmission of the mail caused by the arrest of its carriers upon such charges, is far less than that which would arise from extending to them the immunity for which the counsel of the government contends. Indeed, it may be doubted whether it is competent for Congress to exempt the employees of the United States from arrest on criminal process from the State courts, when the crimes charged against them are not merely *mala prohibita*, but are *mala in se*. But whether legislation of that character be constitutional or not, no intention to extend such exemption should be attributed to Congress unless clearly manifested by its language. All laws should receive a sensible construction. General terms should be so limited in their application as not to lead to injustice, oppression, or an absurd consequence. It will always, therefore, be presumed

* 8 Law Reporter, 77.

that the legislature intended exceptions to its language, which would avoid results of this character. The reason of the law in such cases should prevail over its letter.

The common sense of man approves the judgment mentioned by Puffendorf, that the Bolognian law which enacted, "that whoever drew blood in the streets should be punished with the utmost severity," did not extend to the surgeon who opened the vein of a person that fell down in the street in a fit. The same common sense accepts the ruling, cited by Plowden, that the statute of 1st Edward II, which enacts that a prisoner who breaks prison shall be guilty of felony, does not extend to a prisoner who breaks out when the prison is on fire—"for he is not to be hanged because he would not stay to be burnt." And we think that a like common sense will sanction the ruling we make, that the act of Congress which punishes the obstruction or retarding of the passage of the mail, or of its carrier, does not apply to a case of temporary detention of the mail caused by the arrest of the carrier upon an indictment for murder.*

The questions certified to us must be answered IN THE NEGATIVE; and it is SO ORDERED.

Mr. Justice MILLER, having been absent at the hearing, took no part in this order.

MULLIGAN v. CORBINS.

A statute of a State releasing "whatever interest" in certain real estate may "rightfully" belong to it, is not a law impairing the obligation of a contract in a case where an agent of the State, having by contract with it acquired an interest in *half* the lot, undertakes to sell and conveys the *whole* of it. In such case—and on an assumption that the agent does own one half—the statute will be held to apply to the remaining half alone.

ERROR to the Court of Appeals of Kentucky; the case being this:

Solomon Brindley, a free colored man, was the owner, in

* See also United States *v.* Hart, 1 Peters's Circuit Court, 390.