

The language of the court on this point (p. 410) is in these words:

"In an action like the present, brought to recover that which is substantially a statutory penalty, the statute must receive a *strict construction*, that is, a *literal construction*. The defendant cannot be subjected to a penalty unless the *words* of the statute *plainly* impose it."

In the case of the United States *vs.* Reese (92 U. S., *supra*) the court found the third and fourth sections of the act of Congress of May 18, 1879 (16 Stats., 140), to have, by plain words, extended to every wrongful refusal, by officers of election, to receive the vote of qualified electors at said election, whether of whites or blacks, and to therein and thereby go beyond the only power which Congress possessed regarding such matter, to wit, the power to punish wrongful refusals at such elections when based upon race, color, or previous condition of servitude; and the court was urged to hold that the penal statute then under consideration, although of greater scope in the language employed, was yet to be construed as one *confined* to refusals of votes based on the consideration of race.

In rejecting this conclusion the court says (p. 219):

"This *penal* statute must be construed *strictly*; not so strictly, indeed, as to defeat the clear intention of Congress, but the *words* employed must be understood in the sense they were *obviously* used. (United States *vs.* Wiltberger, 5 Wheat., 85.) If, taking the whole statute together, it is apparent that it was not the intention of Congress to limit the operation of the act, we cannot give it that effect."

The court then proceeds at length to show that sections 3 and 4 (16 Stats., 140, 141) do not *confine* their operation to unlawful discriminations on account of race, and then proceeds to inquire whether, this being the character of these sections, their provisions can be made available for the punishment of those who may be guilty of