In the body of the opinion the court says (2 Bond, 28):

"As the statute under which this action is brought is highly penal, it must receive a *strict* construction, and cannot be held to embrace *any act which, though within the strictness of its letter, is against reason and common sense.* It would be doing injustice to the framers of this law to suppose that they intended to include in its prohibitions and to visit with a penalty the mere act of putting the word 'patent' on an article neither patented nor patentable. Novelty and utility are essential elements of every valid patent issued under the laws of the United States, and it is clear to my mind that to justify a judgment or a penalty for putting the word 'patent' on an article the declaration must allege and there must be proof on the trial that it was legally the subject of a patent."

Judge Deady, in Oliphant *vs.* Salem Flour Mills Co., in 5th Sawyer, 128, dissents from that part of Judge Leavett's opinion in U. S. *vs.* Morris, *supra*, which holds that the article stamped must be a *patentable* article, but, of course, does not question the legal principle, which is the only point for which we refer to said case of Morris, to wit, that such statutes must be strictly construed and never extended by inference or departed from in pleading or procedure.

The case of Ferrett *vs.* Atwill, 1 Blatch., 151, *supra*, is one that was prosecuted under section 11 of the act of February 3, 1831 (4 Stats., 438), which imposed a forfeiture of $100 (one-half thereof to "*the person*" who should sue for the same, and made it recoverable in an action of debt in any court having cognizance thereof) on any party who should stamp any book, map, etc., as entered under copyright act when the same was not so copyrighted. The opinion in that case is by Betts, J., and was decided in 1846. There the court held that (1) a suit under that statute could not be prosecuted in the name of *two* persons, and that a declaration in the name of *two was bad on de-*