new offense with the particular remedy prescribed, to exclude all other remedies."

The court then quotes from Millar *vs.* Taylor, 4 Burrows, 2305, 2323; also from Donaldson *vs.* Beckett, 2 Brown C. P., 129; also from Dudley *vs.* Mayhew, 3 N. Y., 9. The court also cites 5 Johns., 175; 3 Wend., 494; 7 Hill, 575; 4 Hill, 207; 80 N. Y., 117.

In French *vs.* Foley, decided in the Southern District of New York, in 1882, opinion by Brown, J. (11 Fed. Rep., 801), the action was upon the same section 4901.

The following, from the syllabus, indicates what was decided:

"A penalty is not to be imposed for acts not within the fair meaning and construction of the language of the penal statute as it stands; its scope is not to be enlarged by the addition of *other words*, which would be essential in order to warrant the extended construction claimed for it.

"Subdivision 2 of section 4901 of the Revised Statutes, which imposes a penalty of $100 for affixing the word 'patent,' &c., to any patented article, with intent to imitate or counterfeit the mark or device of the patentee, means the mark or device of the patentee of the patented article on which the words are so stamped. The language and fair construction of this subdivision do not include the case of a patented article stamped with the mark of a person who has no patent embracing or affecting the article stamped, but only a patent for a different article, and no penalty can be recovered therefor; the remedy of the person whose mark is improperly used must be sought independent of this section. The statute cannot be extended by inserting, in effect, after the words 'the patentee' the additional words "of the same or any other similar article.'"

In the body of the opinion the court uses this language (p. 804):

"This statute is a highly penal one. In this case the sum of $4,500 is claimed for affixing the stamp in question upon articles whose retail price is less than $100."