

343; *Chaffee & Co. vs. U. S.*, 18 Wall., 517, 545, 546; *Kempton vs. Savings Institute*, 53 N. H., 518.

A citation of authorities on a proposition so elementary and undisputed, alleging that penal prosecutions under penal statutes must strictly pursue the letter of such statute, the statute being also strictly construed, would hardly be excusable but for the fact that the cases we have now gone over have been resorted to, not so much to establish the rule as to obtain from them illustrations of the classes of cases and of facts to which this familiar rule is applied, and thus to show that, tried by the test of these cases, the complaints now before the court utterly bad in law.

We now again return to the notice of the averments of the present complaint in the light of these decisions, uniformly holding, as we have seen, that penal statutes are strictly construed, and that, in order to bring within the penal recoveries authorized by such statutes, no new words or terms can be added—none can be subtracted—no inferences can be resorted to which are not with the “obvious sense of the words actually used,” that no judicial crimes can, by the courts, be created, and which are not, in advance, prescribed by the obvious language of the statute; and that where the act being prosecuted is within the “mischiefs” which the penal statute meant to suppress, yet no prosecution, under such statute, can be maintained where the words of the act do not obviously include the act sought to be punished.

#### PAYMENT IN EXCESS OF AN APPROVED COMPENSATION ESSENTIAL.

Applying these principles, then, to the case at bar, the first and a most obviously fatal defect of the complaint is that it does not aver the existence of any contract for services, as contemplated by section 2103, wherein the Commissioner of Indian Affairs and the Secretary of the Inte-