

The conclusion of the court is that the defendant did not occupy the premises on August 14, 1848, as a missionary station or otherwise, either by itself or the American Board, and that it was not deterred from so doing by the danger from Indian hostilities, but voluntarily abandoned the same before September 10, 1847, without any intention or expectation of re-occupying it under any circumstances, and therefore the patent therefor to the defendant was wrongfully issued; and the decree of the court will be that the defendant be declared a trustee for the several plaintiffs herein, for so much of the premises described in the patent as is claimed by them in their several suits, and that the defendant, within 90 days, by a sufficient conveyance or conveyances, containing proper covenants against its own acts, to be approved by the master of this court, release to the said plaintiffs, accordingly, all right and title to said premises, and that it pay the plaintiffs their costs and expenses of suit.

UNITED STATES v. BIXBY.

(District Court, D. Indiana. April 4, 1881.)

1. EMBEZZLEMENT—ASSIGNEE IN BANKRUPTCY—REV. ST. § 5504.

While an assignee in bankruptcy is an officer of the court, he is not an officer within the purview of section 5504, Rev. St., defining the offence of embezzlement by court officers, and there seems to be no other statute embracing assignees in bankruptcy for the specific offence of embezzlement.

Indictment for embezzlement by assignee in bankruptcy.
Motion to quash.

C. L. Holstein, U. S. Att'y, and *L. H. Richardson*, Ass't,
for the United States.

Gordon, Lamb & Shepherd, for defendant.

GRESHAM, D. J. The defendant is indicted for embezzling funds which came into his hands as assignee of several estates in bankruptcy. The indictment is based upon section 5504 of the Revised Statutes, which reads as follows:

"Every clerk or other officer of a court of the United States, who fails forthwith to deposit any money belonging in the registry of the court, or thereafter paid into court, or received by the officers thereof, with the treasurer, assistant treasurer, or a designated depository of the United States, in the name and to the credit of such court, or who retains or converts to his own use, or to the use of another, any such money, is guilty of embezzlement," etc.

It is only such moneys as are required to be deposited with the treasurer, assistant treasurer, or a designated depository of the United States, in the name and to the credit of the court, that an officer can be guilty of embezzling under this section. An assignee in bankruptcy is an officer of the court, but the funds of the estate which come into his hands are not required to be deposited in any of the places designated in this section, in the name of the court and to its credit.

It is provided in section 5059 of the Revised Statutes that the assignee shall, as soon as may be after receiving any money belonging to the estate, deposit the same in some bank, in his name as assignee, or otherwise keep it distinct from all other money in his possession. The acts charged in the indictment are not covered by section 5504, Rev. St., and there seems to be no other statute making it embezzlement for an assignee in bankruptcy to convert to his own use trust funds which come into his hands. The motion to quash is sustained.

YALE LOCK MANUF'G Co. and others v. NORWICH NAT. BANK.

SAME v. NEW HAVEN SAVINGS BANK.

(Circuit Court, D. Connecticut. March 29, 1881.)

1. RE-ISSUE No. 8,550—IMPROVEMENTS IN TIME LOCKS—NOVELTY.

Re-issued letters patent No. 8,550, for improvements in "time locks," by which the multiple bolt-work of a safe or vault door could be automatically both dogged or locked and unlocked at predetermined times,—the dogging and releasing being caused by the operation of the time mechanism, and the time for locking or unlocking being capable of alteration at the will of the operator, without disturbance of the clock-work,—contained, *inter alia*, the following claims:

"(1) The combination of independent multiple bolt-work with the time mechanism and locking or dogging mechanism of a time lock, automatically both dogging and releasing the bolt-work at predetermined times, substantially as described."

"(7) In a time lock the combination, substantially as above set forth, of the time movements and two adjustable devices, one for determining the time of locking and the other of unlocking."

Held, that the language of the seventh claim was not to be extended so as to include time movements which were used for any obstructing purposes whatever, but was to be considered as referring to the time lock of the specification only.

2. SAME—SAME—SAME.

Held, therefore, that such claim was not anticipated by a patent for a structure containing two similar adjusting devices, which were operated to open and close a gas-cock much after the plan of the patented lock.

3. SAME—INVENTION.

Held, further, that the changes necessary to transform old time locks which unlocked at predetermined times into structures which should also lock at predetermined times, required the exercise of inventive power.

4. SAME—SAME.

Held, further, that the application to safe doors of chronometric mechanism for automatic locking and unlocking at predetermined times involved invention.

5. SAME—INFRINGEMENT.

Held, further, that where a lock has two adjustable devices for locking and unlocking automatically at predetermined times, which are the equivalents of the mechanism of the patented lock, infringement is not avoided by the mere fact that the infringing lock can also be used as an instant locker.