

clerk and a commissioner of the court; the other, if the judge so orders, by drawing "from the boxes used by the state authorities in selecting jurors in the highest courts of the state." If the second method is adopted, as this act contains no further provision regulating the mode of drawing, or of summoning and returning, grand jurors, these matters must still be regulated by the unrepealed provisions of the Revised Statutes. The adoption of the second method in the district court of the United States for this district is shown, not only by the *venires* issued by order of the court to the marshal, and to constables of towns, in the same forms which were in use before the passage of the act of 1879, but also by a formal order, made and signed by the district judge, and entered of record in the district court, on January 18, 1884, in these words:

"Ordered that, until otherwise directed, the names of grand and petit jurors to be summoned to serve at any term of the district court of the United States in this district be drawn from the boxes used by the state authorities, in pursuance of the statutes of Maine, in selecting jurors in the supreme judicial court of the state; and that the clerk issue *venires* for jurors as heretofore practiced."

From these considerations, it results that neither of the first four pleas presents any legal defense.

Under the fifth plea, the objection relied on is that the notice of the town meeting for drawing jurors was posted only three days, instead of four, as required by the constable's *venire* and the statutes of the state. Rev. St. Me. c. 106, § 9. But the meeting having been held and the draft had within the time prescribed, namely, six days before the session of the court, the defect in the notice of the meeting does not affect the validity of the indictment. *State v. Smith*, 67 Me. 328, 335; *Ferris v. People*, 35 N. Y. 125, 129.

The sixth plea was waived at the argument.

Pleas adjudged bad; defendant to answer over.

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### UNITED STATES *v.* HANSON.

(Circuit Court, D. Maine. July 10, 1886.)

**JURY—GRAND JURORS—RULE BY DISTRICT JUDGE ORDERING NAMES TO BE DRAWN—ACT OF 1879.**

By the terms of the act of June 30, 1879, c. 52, § 2, "any judge" is authorized to order the names of jurors to be drawn from the boxes used by the state authorities.

On February 22, 1886, the defendant was arrested, and brought before a commissioner of this court, on a complaint charging him with making a false return to the post-office department, and, by order of the commissioner, entered into a recognizance to appear at April term,

1886, of this court, to answer to any indictment which should be then found against him for the offense alleged in the complaint. At that term, on the day on which the grand jury were summoned to attend, and before they were sworn, and again after they were sworn, and before they were charged by the court, he presented a challenge in writing to the array of the grand jury, because all the grand jurors had been drawn and summoned and returned as stated in the first four pleas in abatement, as in *U. S. v. Richardson*, ante, 61. To this challenge the district attorney demurred *ore tenus*.

*Wilbur F. Lunt* and *Dennis A. Meaher*, for defendant.

*George E. Bird*, Dist. Atty., for the United States.

GRAY, Justice. The opinion in *U. S. v. Richardson*, ante, 61, just decided, disposes of all the questions in this case except one. The order of the circuit court of January 18, 1884, in the same terms as the order of the district court of the same date, set forth in that opinion, is signed by the district judge only; and it is contended, on the authority of *Amis v. Smith*, 16 Pet. 303, that a rule of the circuit court, made by the district judge alone, is of no validity. It is a sufficient answer to this objection that, by the terms of the act of June 30, 1879, c. 52, § 2, "any judge" is authorized to order the names of jurors to be drawn from the boxes used by the state authorities.

Challenge adjudged bad.

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### ARONSON v. FLECKENSTEIN and others.<sup>1</sup>

(Circuit Court, N. D. Illinois. July 6, 1886.)

1. COPYRIGHT—DRAMATIC COMPOSITION—IMITATION PROHIBITED BY INJUNCTION.  
An original operetta, consisting of libretto, score, and name, is property at common law, which, so far as unpublished, will be protected from fraudulent imitation by injunction.
2. SAME—DRAMATIC COMPOSITION—WHAT IS ORIGINAL COMPOSITION.  
An operetta may be so far an original dramatic composition as to entitle it to protection as literary property, although it is an adaptation of an old play.
3. SAME—WHAT IS PUBLICATION OF NAME OF.  
Publication of the songs and vocal score of an operetta, with the name of the operetta, does not make such name public property.
4. SAME—PARTY TO BRING SUIT FOR INFRINGEMENT.  
Suit for protection of property at common law in a dramatic composition *e. g.*, an operetta, can be brought only by the licensee of a general owner, where such licensee has an exclusive license for a definite period, and, by the terms of his license, is to bring all suits for the protection of his rights.
5. SAME—PART OWNER MAY SUE FOR INFRINGEMENT.  
A part owner of a dramatic composition may protect his property by suit against a wrong-doer.

In Chancery.

<sup>1</sup> Edited by Russell H. Curtis, of the Chicago bar.