

the part of congress to prohibit the immigration of aliens under a contract to labor, and, in view of the phraseology of the title to the act, that body seems to have prohibited their landing with sufficient clearness.

2. The relator further contends that he is within the exception of the fifth section, which provides that the acts shall not apply to persons employed strictly as personal or domestic servants. There was before the collector when he made his decision, legal and competent evidence of facts on which to exercise a judgment as to the *status* of the relator. Under these circumstances, the matter being within the jurisdiction of the collector under the act, further consideration of the case might be dispensed with under the authority of *In re Day*, 27 Fed. Rep. 678, and cases there cited. Upon all the proofs, however, as well those which were before the collector as those since supplied through the answers to the interrogatories, I am of the opinion that the relator is not within the exception; because it appears that his labor will (in part at least) be devoted to the production of merchandise (the surplus dairy products of the herd being sold on the market) which competes with the products of others whose entire attention is given to manufacturing such products. Manifestly, it was the intention of congress to exclude immigrants coming to this country under contract to perform such labor. The facts disclosed by the answers to the interrogatories, however, have never been placed before the collector, and therefore, under the authority of *In re Day*, 27 Fed. Rep. 681, the whole case may be again presented to him, if the relator so desires. Ordered accordingly.

Ex parte DORAN.

(District Court, D. Minnesota. August 29, 1887.)

USE OF MAILS—INDECENT LANGUAGE.

A creditor deposited in the mail letters inclosed in envelopes directed to a debtor, on one of which was indorsed: "Carry me back in due time to ———, the Regulator, for publication, 32 South Washington, Minneapolis, Minn. Persons who want us to collect from DEAD BEATS should send their accounts to 32 Washington avenue south, Minneapolis, Minn. Send five cents to insure postage for a large letter to the critter;" and on another: "Return in 10 days to ———, the Collector of BAD DEBTS, 32 Washington Av. S., Minneapolis, Minn. I am looking for an OLD BILL. The DEAD-BEAT COLLECTOR hires me to look them up." He also mailed a postal card addressed to the debtor, containing the following writing: "SIR: Considering how near you can come to fill a bill, I have decided to post you on all DEAD-BEAT lists I know of in the city, and have accordingly given the different agencies a chance at you." *Held*, that the creditor was not liable to prosecution under Rev. St. U. S. § 3893, as amended, making it an offense for any person to deposit in the mail any "letter upon the envelope of which, or postal card upon which, indecent, lewd, obscene, or lascivious delineations, epithets, terms, or language may be written or printed," as the statute was intended to exclude from the mails only such writings as were impure or immodest, and tended to corrupt the morals of the people.

Petition for a Writ of *Habeas Corpus*.

T. Ryan, for petitioner.

Dan. W. Lawler, for the United States.

NELSON, J. The petitioner was arrested, charged with a violation of section 3893, Rev. St. U. S., and, after a preliminary examination before a commissioner of the United States circuit court, was held guilty of the charge. Upon his commitment which followed, he presents a petition for a writ of *habeas corpus*, alleging that he is unlawfully and illegally restrained of his liberty, and that the act which he is charged with doing is not an offense against the laws of the United States. The petitioner admits that he deposited in the mail certain writings, and a postal-card and envelopes upon which the following are indorsed:

[Envelope.]

EXHIBIT A.

Carry me back in due time to ———
 ——— The Regulator, for publica-
 tion, 32 South Washington, Minne-
 apolis, Minn.

Persons who want us to collect from
 DEAD BEATS should send their ac-
 counts to 32 Washington avenue
 south, Minneapolis, Minn.

Send five cents to insure postage
 for a large letter to the critter.

Mr. D. J. COMLY, 8th & Jackson
 Sts., City.

[Envelope.]

EXHIBIT B.

Return in 10 days to ———,
 The Collector of BAD DEBTS, 32 Wash-
 ington Av. S., Minneapolis, Minn.
 I am looking for an OLD BILL.

The DEAD-BEAT COLLECTOR hires
 me to look them up.

[Stamp.]

{ St. Paul, Minn. }
 { July 18, '87. }
 { 3 P. M. }

D. J. COMLY,
 Cor. 8th & Jackson,
 9 Corlies, Chapman & Drake,
 City.

[Postal Card.]

EXHIBIT C.

JULY 18, 1887.

SIR: Considering how near you can come to fill a bill, I have decided to post you on all the DEAD-BEAT lists I know of in the city, and have accordingly given the different agencies a chance at you.

F. B. DORAN.

Section 3893, as amended, enacts as follows:

"Every obscene, lewd, or lascivious book, pamphlet, picture, paper, writing, print, or other publication of an indecent character, and every article or thing designed or intended for the prevention of conception, or procuring of abortion, and every article or thing intended or adapted for any indecent or immoral use, and every written or printed card, circular, book, pamphlet, advertisement, or notice of any kind, giving information, directly or indirectly, where or how, or of whom, or by what means, any of the hereinbefore mentioned matters, articles, or things may be obtained or made, and every letter upon the envelope of which, or postal-card upon which, indecent, lewd, obscene, or lascivious delineations, epithets, terms, or language may be written or printed, are hereby declared to be non-mailable matter, and shall not be conveyed in the mails, nor delivered from any post-office, nor by any letter-

carrier; and any person who shall knowingly deposit, or cause to be deposited, for mailing or delivery, anything declared by this section to be non-mailable matter, * * * shall be deemed guilty of a misdemeanor, and shall for each and every offense be fined not less than one hundred nor more than five thousand dollars, or imprisoned at hard labor not less than one year, nor more than ten years, or both, at the discretion of the court." Supp. Rev. St. 229.

The claim made by the relator that the exhibits do not make out a case in which this court has jurisdiction, and that the law has not been violated, in my opinion, is true. To hold otherwise would necessitate a strained construction of this statute. The purpose of the act was to prevent the mails from being used to circulate matter to corrupt the morals of the people. The history of this legislation clearly shows that congress determined to exclude from the mails impure and immodest writings, and that rough and coarse language is not within the terms of the act. It is not the province of courts to extend the statutes so as to embrace cases not plainly and clearly within their terms; and, if there is a fair doubt whether the act charged is within the purview of the law, the person who committed it is entitled to the benefit of the doubt. The supreme court of the United States, in *Ex parte Jackson*, 96 U. S. 736, say: "In excluding various articles from the mail, the object of congress has not been to interfere with * * * the rights of the people, but to refuse its facilities for the distribution of matter deemed injurious to the public morals." And, again: "All that congress meant by this act was that the mail should not be used to transport such corrupting publications and articles."

The writings deposited in the mail and complained of are not excluded mailable matter, and afford no cause for criminal proceedings.

The petitioner is discharged from custody.

WHEELER and others v. HART and others.

(Circuit Court, N. D. New York. August 23, 1887.)

PATENTS FOR INVENTIONS—DETACHABLE RADIATOR—STATE OF ART—RESTRICTION OF CLAIM.

In a suit for infringement of claim 1 of letters patent No. 245,157, granted Messrs. Goodenow & Owens, August 2, 1881, for an improvement in hot-air furnaces, consisting of "a furnace having a detachable radiator," "substantially as and for the purposes set forth," the specifications requiring that the radiator be attached by means of a flange, slots, and lugs, which securely lock it in position, and render it detachable by bringing the lugs opposite the slots, *held*, in view of the state of the art, and the language of the specifications, that this claim was not infringed by a furnace having a detachable radiator not secured by any such means, or equivalents therefor.

In Equity.

Bill for an infringement of claim 1 of letters patent No. 245,157, granted to Messrs. Goodenow & Owens, August 2, 1881, for an improvement in