

authorized by its charter to operate. The Pittsburgh Plate Glass Company did not have, and could not expect to maintain, a monopoly of this growing industry. That the building of the Ford City works was in itself a "menace" to that company is an unwarrantable assumption. Moreover, those works were in friendly hands. It is incredible that the defendants would have run them to the prejudice of a company in which they had interests so large. In fact, John Pitcairn's interest in the old company was greater than his interest in the Ford City works. I am entirely satisfied that none of these defendants entertained any hostile or improper design against the Pittsburgh Plate Glass Company. The proofs are quite convincing that their original purpose was to have the company itself build the works, but this purpose was defeated in the manner already stated.

The contract here in question seems to have been freely and fairly entered into. The defendants, holding the controlling interest in the stock of the company, in the first instance, permitted the minority stockholders to determine by their votes whether the offer of sale should be accepted. The bargain does not appear to be unconscionable. The Ford City works cost very nearly \$1,200,000, and the proofs show that \$300,000 would not be an excessive profit for a contractor who had incurred the risks involved in such an undertaking. The works are first-class, and probably could have been disposed of to others upon terms as favorable to J. B. Ford & Co. as those here agreed on. The suggestion that J. B. Ford & Co. realized an undue gain by reason of the market rate of the stock they received does not strike me as having any special force. The new assets they brought into the concern had very great value, and not only kept up the market value of the stock, but, without any doubt, contributed largely to the further advance which soon followed. The truth is, the acquisition of those works has been highly advantageous to the Pittsburgh Plate Glass Company. Hence no one is now seeking to set aside the transaction. The relief prayed for is not rescission, but a reduction of the profits which accrued to J. B. Ford & Co. Virtually the court is asked to make a new contract between these parties. Upon the most patient investigation of all the facts, I am unable to see that there is here presented a case which rightfully calls for any equitable relief. Let a decree be drawn dismissing the bill. with costs.

UNITED STATES v. MALES.

(District Court, D. Indiana. June 15, 1892.)

No. 4,605.

POST OFFICE—NONMAILABLE MATTER—INDECENT WRITING.

Rev. St. § 8898, punishing the mailing of any "obscene, lewd, or lascivious book," etc., applies only to matters tending to excite impure and unchaste thoughts, and not to language which is merely coarse, vulgar, and indecent.

At Law. Indictment for mailing obscene matter. The objectionable writing was not set out in the indictment, and the question whether it came within the meaning of the statute arose on an objection to its introduction in evidence. The court directed a verdict of not guilty.

Smiley N. Chambers, for the United States.

Herod & Herod, for defendant.

BAKER, District Judge. This is a prosecution for sending obscene matter through the mail. The defendant wrote on the margin of a valentine the following:

"You can keep this to wipe your dirty a— on, and spend your money to pay your debts, or have your picture taken again in men's clothing. We can prove you sent them for slander."

The valentine with this writing on it was inclosed in a sealed envelope addressed to one Cora Anderson, and was sent to her through the mail. The counsel for the defendant contend that the writing does not constitute a public offense. They insist that the use of merely coarse, vulgar, or insulting language, mailed in a sealed envelope, is not made criminal by the statute; and that to make the writing criminal it must have a tendency to corrupt the morals, or to excite unchaste desires and impure thoughts. On the other hand, the counsel for the government maintains that any writing which is vulgar or indecent, regardless of its tendency to corrupt the morals, or to excite impure desires, falls within the condemnation of the statute. The statute under which the indictment is drawn is as follows:

"Sec. 3893. Every obscene, lewd, or lascivious book, pamphlet, picture, paper, letter, 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 adopted for any indecent or immoral use, and every written or printed card, letter, 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, whether sealed as first-class matter or not, are hereby declared to be nonmailable 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 nonmailable matter, and any person who shall knowingly take the same, or cause the same to be taken, from the mails for the purpose of circulating or disposing of, or of aiding in the circulation or disposition of, the same, shall for each and every offense be fined,