

in United States waters unintentionally. If the libellants are entitled to have applied the law of the United States in respect to the liability, the Canadian courts will, it must be assumed, give effect to it. The District Court embodied in the decrees an order that the respondent should appear and file security in any action which might be instituted by the petitioners in the admiralty courts of Canada, so that petitioners would not by dismissal of the libels lose the security gained by the foreign attachment. It is difficult to conceive of a state of facts more clearly justifying the refusal of a District Court to retain jurisdiction in a cause between foreigners.

Affirmed.

MR. JUSTICE CARDOZO took no part in the consideration or decision of these cases.

UNITED STATES *v.* LIMEHOUSE.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES
FOR THE EASTERN DISTRICT OF SOUTH CAROLINA.

No. 513. Argued February 25, 26, 1932.—Decided April 11, 1932.

1. In § 211 of the Criminal Code, which declares unmailable "every obscene, lewd, or lascivious, and every filthy" book, letter, etc., "or other publication of an indecent character," and punishes the mailing of such things, the words "and every filthy" add a new class to the matter included when this Court construed the prohibition (R. S. 3893) as confined to matter "calculated to corrupt and debauch the minds and morals of those into whose hands it might fall" and to induce sex immorality. *Swearingen v. United States*, 161 U. S. 446. P. 426.
 2. The section is *held* applicable to letters that contained much foul language and that charged the addressees, or persons associated with them, with sex immorality. *Id.*
- 58 F. (2d) 395, reversed.

APPEAL under the amended Criminal Appeals Act from an order quashing an indictment on demurrer.

Mr. Claude R. Branch, with whom *Solicitor General Thacher*, *Assistant Attorney General Dodds*, and *Mr. W. Marvin Smith* were on the brief, for the United States.

Messrs. William C. Wolfe and *John P. Grace* for appellee.

MR. JUSTICE BRANDEIS delivered the opinion of the Court.

Section 211 of the Criminal Code declares unmailable, "every obscene, lewd, or lascivious, and every filthy, book, pamphlet, picture, paper, letter, print, or other publication of an indecent character"; and provides that "whoever shall knowingly deposit, or cause to be deposited for mailing and delivery" any such unmailable matter "shall be fined not more than five thousand dollars, or imprisoned not more than five years, or both."

Under this statute Limehouse was indicted in the federal court for eastern South Carolina. The indictment contained thirty counts, each charging the unlawful deposit of "a certain filthy letter and writing in a certain post office." Each set forth *verbatim* a separate letter. The letters contained much foul language; charged the addressees or persons associated with them with sexual immorality, and in some cases charged miscegenation and similar practices. They were coarse, vulgar, disgusting, indecent; and unquestionably filthy within the popular meaning of that term. On the ground that no letter was obscene, lewd or lascivious within the meaning given to those terms in *Swearingen v. United States*, 161 U. S. 446, the District Court sustained a demurrer and quashed the indictment. The case is here by direct appeal under the Criminal Appeals Act as amended.¹ We are of opinion that the judgment should be reversed.

¹ See Acts of March 2, 1907, c. 2564, 34 Stat. 1246; February 13, 1925, c. 229, 43 Stat. 936, 938; January 31, 1928, c. 14, 45 Stat. 54; and April 26, 1928, c. 440, 45 Stat. 466.

In *Swearingen v. United States*, decided in 1896, the indictment was under Revised Statutes § 3893, which made unmailable only "obscene, lewd, or lascivious" matter. This Court, being of opinion that those words should be given the meaning attributed to them at common law in prosecutions for criminal libel, directed that the judgment of conviction be reversed, because the language used was not "calculated to corrupt and debauch the mind and morals of those into whose hands it might fall" and induce sexual immorality. 161 U. S. at 451. The indictment here under review contains no reference to "obscene, lewd, or lascivious." The charge is of depositing "a certain filthy letter." It is brought under the amendment to § 3893 of the Revised Statutes made by § 211 of the Criminal Code, Act of March 4, 1909, c. 321, 35 Stat. 1088, 1129, which inserted the words, "and every filthy." Now the clause reads "every obscene, lewd, or lascivious, and every filthy, book, . . . letter."

The lower court failed to recognize that the amendment introduced, not merely a word, but a phrase. Disregarding the collocation of the words, it treated the amended clause as if it had read "obscene, lewd, lascivious, or filthy;" and then, applying the doctrine of *noscitur a sociis*, gave to "filthy" the meaning attributed in the *Swearingen* case to the words "obscene, lewd, or lascivious." Thus, the court emptied the amendment of all meaning. We think that it is a more natural reading of the clause to hold that by the amendment Congress added a new class of unmailable matter,—the filthy.² The let-

² For the legislative history of the amendment see Senate Doc. No. 68, Pt. 2, p. XVI, Cong. Docs. 4227, 4228, 57 Cong. 1st Sess., Senate Docs. Vols. 9, 10; House Report No. 2, Pt. 1, p. 2, 60th Cong., 1st Sess., Cong. Doc. 5225; Final Report, 1906, U. S. Commission to Revise the Laws, Vol. 1, p. 107 under § 8845, Vol. 2 (proposed bill), p. 1813; Senate Report No. 10, Pt. 1, p. 22, Pt. 2, p. 230, "Sec. 212," 60th Cong., 1st Sess., Cong. Doc. 5220; House Report No. 2, Pt. 1, p. 22, 60th Cong., 1st Sess., Cong. Doc. 5225; 42 Cong. Rec., Pt. 1, pp. 539-542, 564, 995-999; *id.*, Pt. 3, pp. 2391-2392; Vol. 43, Pt. 1, pp. 283-284, 2649; *id.*, Part 4, pp. 3217-18.

ters here in question plainly relate to sexual matters. We have no occasion to consider whether filthy letters of a different character fall within the prohibition of the Act.

Reversed.

MR. JUSTICE McREYNOLDS thinks the judgment should be affirmed.

MR. JUSTICE CARDOZO took no part in the consideration or decision of this case.

HAGNER *ET AL.* *v.* UNITED STATES.

CERTIORARI TO THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

No. 590. Argued March 14, 1932.—Decided April 11, 1932.

1. Defendants were convicted in the District of Columbia upon an indictment under § 215 of the Criminal Code, charging that, having devised there a scheme to defraud a named corporation in manner and form set forth, they did, for the purpose of executing the scheme, place in a designated post office in Pennsylvania, to be sent and delivered by the post office establishment to the addressee thereof, certain accounts enclosed in an envelope addressed to the company at a stated address in the District of Columbia. The indictment did not allege specifically that they caused the letter to be delivered by mail according to the direction thereon. *Held* that against objection first made by motion in arrest, and upon a record not containing the evidence or instructions, the indictment should be sustained as charging an offense committed within that District, because of the presumption that the letter was delivered there. Pp. 429-431.
2. Proof that a letter properly directed was placed in a post office, creates a presumption that it reached its destination in usual time and was actually received by the person to whom it was addressed. And the fact that receipt of the letter subjects the person sending it to a penalty does not alter the rule. P. 430.