37 S.Ct. 192
Supreme Court of the United States.

F. DREW CAMINETTI, Petitioner,
v.
UNITED STATES.

No. 139.
No. 163.
No. 464.

Nos. 139, 163, and 464.

Argued November 13 and 14, 1916

Decided January 15, 1917.

TWO WRITS of Certiorari to the United States Circuit Court of Appeals for the Ninth Circuit to review judgments which affirmed convictions in the District Court of the United States for the Northern District of California of violations of the White Slave Traffic Act. Affirmed. Also ON WRIT of Certiorari to the United States Circuit Court of Appeals for the Eighth Circuit to review a judgment which affirmed a conviction in the District Court for the Western District of Oklahoma of a violation of the White Slave Traffic Act. Affirmed.

See same case below, in Nos. 139 and 163, 136 C. C. A. 147, 220 Fed. 545, in No. 464, 145 C. C. A. 294, 231 Fed. 106.

The facts are stated in the opinion.

West Headnotes (7)

[1] **Statutes**
Reports and analyses

Name given congressional enactment by way of designation in the report of the committee accompanying the bill cannot change the plain implication of the words of the statute.

737 Cases that cite this headnote

[2] **Statutes**
Plain, literal, or clear meaning; ambiguity

Name given congressional enactment by way of designation in the act cannot change the plain implication of the words of the statute.

299 Cases that cite this headnote

[3] **Commerce**
Transportation of passengers

Construing as applicable to transportation in interstate commerce of woman unaccompanied by expectation of pecuniary gain, the provisions of White Slave Traffic Act June 25, 1910, 18 U.S.C.A. § 397 et seq., does not render the statute invalid as in excess of the constitutional power of Congress over interstate commerce.

143 Cases that cite this headnote

[4] **Commerce**
Transportation of passengers

White Slave Traffic Act held valid.

15 Cases that cite this headnote

[5] **Criminal Law**
Necessity and propriety of instructions

Accused, who voluntarily testifies for himself, may not omit to explain incriminating circumstances as to which he is informed, without subjecting his silence to the inferences to be drawn from it, and justifying comment in the charge to effect the jury may consider it.

167 Cases that cite this headnote

[6] **Criminal Law**
Testimony of accomplices and codefendants

Conviction under White Slave Traffic Act June 25, 1910, 36 Stat. 825, 18 U.S.C.A. §§ 2421, 2422, will not be reversed because of refusal to instruct that certain testimony was that of accomplices, to be received with caution and believed only when corroborated.

311 Cases that cite this headnote

[7] **Prostitution**
Federal Offenses

Transportation in interstate commerce of woman, though unaccompanied by expectation of pecuniary gain, is condemned by White Slave Traffic Act June 25, 1910, 18 U.S.C.A. § 2421 et seq.

89 Cases that cite this headnote

Attorneys and Law Firms

*472 **193 Messrs. **Joseph W. Bailey**, Marshall B. Woodworth, and Robert T. Devlin for petitioners in Nos. 139 and 163.

*480 Mr. **Harry O. Glasser** for petitioner in No. 464.

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Opinion

Mr. Justice **Day** delivered the opinion of the court:

These three cases were argued together, and may be disposed of in a single opinion. In each of the cases there was a conviction and sentence for violation of the so-called White Slave Traffic Act of June 25, 1910 (36 Stat. at L. 825, chap. 395, Comp. Stat. 1913, § 8813), the judgments were affirmed by the circuit courts of appeals, and writs of certiorari bring the cases here.

In the Caminetti Case, the petitioner was indicted in the United States district court for the northern district of California, upon the 6th day of May, 1913, for alleged violations of the act. The indictment was in four counts, the first of which charged him with transporting and causing to be transported, and aiding and assisting in *483 obtaining transportation for a certain woman from Sacramento, California, to Reno, Nevada, in interstate commerce, for the purpose of debauchery, and for an immoral purpose, to wit, that the aforesaid woman should be and become his mistress and concubine. A verdict of not guilty was returned as to the other three counts of this indictment. As to the first count, defendant was found guilty and sentenced to imprisonment for eighteen months and to pay a fine of $1,500. Upon writ of error to the United States circuit court of appeals for the ninth circuit, that judgment was affirmed. 136 C. C. A. 147, 220 Fed. 545.

Diggs was indicted at the same time as was Caminetti, upon six counts, with only four of which are we concerned, inasmuch as there was no verdict upon the last two. The first count charged the defendant with transporting and causing to be transported, and aiding and assisting in obtaining transportation for, a certain woman from Sacramento, California, to Reno, Nevada, for the purpose of debauchery, and for an immoral purpose, to wit, that the aforesaid woman should be and become his concubine and mistress. The second count charged him with a like offense as to another woman (the companion of Caminetti) in transportation, etc., from Sacramento to Reno, that she might become the mistress and concubine of Caminetti. The third count charged him (Diggs) with procuring a ticket for the first-mentioned woman from Sacramento to Reno in interstate commerce, with the intent that she should become his concubine and mistress. The fourth count made a like charge as to the girl companion of Caminetti. Upon trial and verdict of guilty on these four counts, he was sentenced to imprisonment for two years and to pay a fine of $2,000. As in the Caminetti **194 case, that judgment was affirmed by the circuit court of appeals. 136 C. C. A. 147, 220 Fed. 545.

In the Hays Case, upon June 26th, 1914, an indictment *484 was returned in the United States district court for the western district of Oklahoma against Hays and another, charging violations of the act. The first count charged the said defendants with having, on March 17th, 1914, persuaded, induced, enticed, and coerced a certain

woman, unmarried and under the age of eighteen years, from Oklahoma City, Oklahoma, to the city of Wichita, Kansas, in interstate commerce and travel, for the purpose and with intent then and there to induce and coerce the said woman, and intending that she should be induced and coerced to engage in prostitution, debauchery, and other immoral practices, and did then and there, in furtherance of such purposes, procure and furnish a railway ticket entitling her to passage over the line of railway, to wit, the Atchison, Topeka, & Santa Fe Railway, and did then and there and thereby, knowingly entice and cause the said woman to go and to be carried and transported as a passenger in interstate commerce upon said line of railway. The second count charged that on the same date the defendants persuaded, induced, enticed, and coerced the same woman to be transported from Oklahoma City to Wichita, Kansas, with the purpose and intent to induce and coerce her to engage in prostitution, debauchery, and other immoral practices at and within the state of Kansas, and that they enticed her and caused her to go and be carried and transported as a passenger in interstate commerce from Oklahoma City, Oklahoma, to Wichita, Kansas, upon a line and route of a common carrier, to wit: The Atchison, Topeka, & Santa Fe Railway. Defendants were found guilty by a jury upon both counts, and Hays was sentenced to imprisonment for eighteen months. Upon writ of error to the circuit court of appeals for the eighth circuit, judgment was affirmed (145 C. C. A. 294, 231 Fed. 106).

It is contended that the act of Congress is intended to reach only 'commercialized vice,' or the traffic in women *485 for gain, and that the conduct for which the several petitioners were indicted and convicted, however reprehensible in morals, is not within the purview of the statute when properly construed in the light of its history and the purposes intended to be accomplished by its enactment. In none of the cases was it charged or proved that the transportation was for gain or for the purpose of furnishing women for prostitution for hire, and it is insisted that, such being the case, the acts charged and proved, upon which conviction was had, do not come within the statute.

It is elementary that the meaning of a statute must, in the first instance, be sought in the language in which the act is framed, and if that is plain, and if the law is within the constitutional authority of the lawmaking body which passed it, the sole function of the courts is to enforce it according to its terms. Lake County v. Rollins, 130 U. S. 662, 670, 671, 32 L. ed. 1060, 1063, 1064, 9 Sup. Ct. Rep. 651; Bate Refrigerating Co. v. Sulzberger, 157 U. S. 1, 33, 39 L. ed. 601, 610, 15 Sup. Ct. Rep. 508; United States v. Lexington Mill & Elevator Co. 232 U. S. 399, 409, 58 L. ed. 658, 661, L.R.A.1915B, 774, 34 Sup. Ct. Rep. 337; United States v. First Nat. Bank, 234 U. S. 245, 258, 58 L. ed. 1298, 1303, 34 Sup. Ct. Rep. 846.

Where the language is plain and admits of no more than one meaning, the duty of interpretation does not arise, and the rules which are to aid doubtful meanings need no discussion. Hamilton v. Rathbone, 175 U. S. 414, 421, 44 L. ed. 219, 222, 20 Sup. Ct. Rep. 155. There is no ambiguity in the terms of this act. It is specifically made an offense to knowingly transport or cause to be transported, etc., in interstate commerce, any woman or girl for the purpose of prostitution or debauchery, or for 'any other immoral purpose,' or with the intent and purpose to induce any such woman or girl to become a prostitute or to give herself up to debauchery, or to engage in any other immoral practice.

Statutory words are uniformly presumed, unless the contrary appears, to be used in their ordinary and usual sense, and with the meaning commonly attributed to *486 them. To cause a woman or girl to be transported for the purposes of debauchery, and for an immoral purpose, to wit, becoming a concubine or mistress, for which Caminetti and Diggs were convicted; or to transport an unmarried woman, under eighteen years of age, with the intent to induce her to engage in prostitution, debauchery, and other immoral practices, for which Hays was convicted, would seem by the very statement of the facts to embrace transportation for purposes denounced by the act, and therefore fairly within its meaning.

While such immoral purpose would be more culpable in morals and attributed to baser motives if accompanied with the expectation of pecuniary gain, such considerations do not prevent the lesser offense against morals of furnishing transportation in order that a woman may be debauched, or become a mistress or a concubine, from being the execution of purposes **195 within the meaning of this law. To say the contrary would shock the common understanding of what constitutes an immoral purpose when those terms are applied, as here, to sexual relations.

In United States v. Bitty, 208 U. S. 393, 52 L. ed. 543, 28 Sup. Ct. Rep. 396, it was held that the act of Congress against the importation of alien women and girls for the purpose of prostitution 'and any other immoral purpose' included the importation of an alien woman to live in concubinage with the person importing her. In that case this court said:

'All will admit that full effect must be given to the intention of Congress as gathered from the words of the statute. There can be no doubt as to what class was aimed at by the clause forbidding the importation of alien

women for purposes of 'prostitution.' It refers to women who, for hire or without hire, offer their bodies to indiscriminate intercourse with men. The lives and example of such persons are in hostility to 'the idea of the family, as consisting in and springing from the union for life of one ***487** man and one woman in the holy estate of matrimony; the sure foundation of all that is stable and noble in our civilization; the best guaranty of that reverent morality which is the source of all beneficent progress in social and political improvement.' Murphy v. Ramsey, 114 U. S. 15, 45, 29 L. ed. 47, 57, 5 Sup. Ct. Rep. 747. . . . Now the addition in the last statute of the words, 'or for any other immoral purpose,' after the word 'prostitution,' must have been made for some practical object. Those added words show beyond question that Congress had in view the protection of society against another class of alien women other than those who might be brought here merely for purposes of 'prostitution.' In forbidding the importation of alien women 'for any other immoral purpose,' Congress evidently thought that there were purposes in connection with the importations of alien women which, as in the case of importations for prostitution, were to be deemed immoral. It may be admitted that, in accordance with the familiar rule of *ejusdem generis*, the immoral purpose referred to by the words 'any other immoral purpose' must be one of the same general class or kind as the particular purpose of 'prostitution' specified in the same clause of the statute. 2 Lewis's Sutherland, Stat. Constr. § 423, and authorities cited. But that rule cannot avail the accused in this case; for the immoral purpose charged in the indictment is of the same general class or kind as the one that controls in the importation of an alien woman for the purpose strictly of prostitution. The prostitute may, in the popular sense, be more degraded in character than the concubine, but the latter none the less must be held to lead an immoral life, if any regard whatever be had to the views that are almost universally held in this country as to the relations which may rightfully, from the standpoint of morality, exist between man and woman in the matter of sexual intercourse.'

This definition of an immoral purpose was given prior to the enactment of the act now under consideration, and ***488** must be presumed to have been known to Congress when it enacted the law here involved. (See the sections of the act[1] set forth in the margin.)

***489** But it is contended that though the words are so plain that they cannot be misapprehended when given their usual and ordinary interpretation, and although the sections in which they appear do not in terms limit the offense defined and punished to acts of 'commercialized vice,' or the furnishing or procuring of transportation of women for debauchery, prostitution, or immoral practices for hire, such limited purpose is to be attributed to Congress and engrafted upon the act in view of the language of § 8 and the report which accompanied ****196** the law upon its introduction into and subsequent passage by the House of Representatives.

In this connection, it may be observed that while the title of an act cannot overcome the meaning of plain and unambiguous words used in its body (United States v. Fisher, 2 Cranch, 358, 386, 2 L. ed. 304, 313; Goodlett v. Louisville & N. R. Co. 122 U. S. 391, 408, 30 L. ed. 1230, 1233, 7 Sup. Ct. Rep. 1254; Patterson v. The Eudora, 190 U. S. 169, 172, 47 L. ed. 1002, 1003, 23 Sup. Ct. Rep. 821; Cornell v. Coyne, 192 U. S. 418, 430, 48 L. ed. 504, 509, 24 Sup. Ct. Rep. 383; Lapina v. Williams, 232 U. S. 78, 92, 58 L. ed. 515, 520, 34 Sup. Ct. Rep. 196), the title of this act embraces the regulation of interstate commerce 'by prohibiting the transportation therein for immoral purposes of women and girls, and for other purposes.' It is true that ***490** § 8 of the act provides that it shall be known and referred to as the 'White Slave Traffic Act,' and the report accompanying the introduction of the same into the House of Representatives set forth the fact that a material portion of the legislation suggested was to meet conditions which had arisen in the past few years, and that the legislation was needed to put a stop to a villainous interstate and international traffic in women and girls. Still, the name given to an act by way of designation or description, or the report which accompanies it, cannot change the plain import of its words. If the words are plain, they give meaning to the act, and it is neither the duty nor the privilege of the courts to enter speculative fields in search of a different meaning.

Reports to Congress accompanying the introduction of proposed laws may aid the courts in reaching the true meaning of the legislature in cases of doubtful interpretation (Blake v. National City Bank, 23 Wall. 307, 319, 23 L. ed. 119, 120; Bate Refrigerating Co. v. Sulzberger, 157 U. S. 1, 42, 39 L. ed. 601, 613, 15 Sup. Ct. Rep. 508; Chesapeake & P. Teleph. Co. v. Manning, 186 U. S. 238, 246, 46 L. ed. 1144, 1147, 22 Sup. Ct. Rep. 881; Binns v. United States, 194 U. S. 486, 495, 48 L. ed. 1087, 1090, 24 Sup. Ct. Rep. 816). But, as we have already said, and it has been so often affirmed as to become a recognized rule, when words are free from doubt they must be taken as the final expression of the legislative intent, and are not to be added to or subtracted from by considerations drawn from titles or designating names or reports accompanying their introduction, or from any extraneous source. In other words, the language being plain, and not leading to absurd or wholly impracticable consequences, it is the sole evidence of the ultimate legislative intent. See Mackenzie v. Hare, 239 U.

S. 299, 308, 60 L. ed. 297, 300, 36 Sup. Ct. Rep. 106.

The fact, if it be so, that the act as it is written opens the door to blackmailing operations upon a large scale, is no reason why the courts should refuse to enforce it according to its terms, if within the constitutional authority of Congress. Such considerations are more appropriately *491 ADDRESSED TO THE LEGISLATIVE BRANCH OF THe government, which alone had authority to enact and may, if it sees fit, amend the law. Lake County v. Rollins, 130 U. S. 673, 32 L. ed. 1064, 9 Sup. Ct. Rep. 651.

**197 It is further insisted that a different construction of the act than is to be gathered from reading it is necessary in order to save it from constitutional objections, fatal to its validity. The act has its constitutional sanction in the power of Congress over interstate commerce. The broad character of that authority was declared once for all in the judgment pronounced by this court, speaking by Chief Justice Marshall, in Gibbons v. Ogden, 9 Wheat. 1, 6 L. ed. 23, and has since been steadily adhered to and applied to a variety of new conditions as they have arisen.

It may be conceded, for the purpose of the argument, that Congress has no power to punish one who travels in interstate commerce merely because he has the intention of committing an illegal or immoral act at the conclusion of the journey. But this act is not concerned with such instances. It seeks to reach and punish the movement in interstate commerce of women and girls with a view to the accomplishment of the unlawful purposes prohibited.

The transportation of passengers in interstate commerce, it has long been settled, is within the regulatory power of Congress, under the commerce clause of the Constitution, and the authority of Congress to keep the channels of interstate commerce free from immoral and injurious uses has been frequently sustained, and is no longer open to question.

Moreover, this act has been sustained against objections affecting its constitutionality of the character now urged. Hoke v. United States, 227 U. S. 308, 57 L. ed. 523, 43 L.R.A.(N.S.) 906, 33 Sup. Ct. Rep. 281, Ann. Cas. 1913E, 905; Athanasaw v. United States, 227 U. S. 326, 57 L. ed. 528, 33 Sup. Ct. Rep. 285, Ann. Cas. 1913E, 911; Wilson v. United States, 232 U. S. 563, 58 L. ed. 728, 34 Sup. Ct. Rep. 347. In the Hoke Case, the constitutional objections were given consideration and denied upon grounds fully stated in the opinion (pages 308 et seq.). It is true that the particular case arose from a prosecution of one charged with *492 transporting a woman for the purposes of prostitution in violation of the act. But, holding as we do, that the purposes and practices for which the transportation in these cases was procured are equally within the denunciation of the act, what was said in the Hoke Case as to the power of Congress over the subject is as applicable now as it was then.

After reviewing the Lottery Case (Champion v. Ames) 188 U. S. 321, 357, 47 L. ed. 492, 501, 23 Sup. Ct. Rep. 321, 13 Am. Crim. Rep. 561, and other cases in this court decided since the decision of that case, it was said in the Hoke Case (page 323):

'The principle established by the cases is the simple one, when rid of confusing and distracting considerations, that Congress has power over transportation 'among the several states;' that the power is complete in itself, and that Congress, as an incident to it, may adopt not only means necessary but convenient to its exercise, and the means may have the quality of police regulations. Gloucester Ferry Co. v. Pennsylvania, 114 U. S. 196, 215, 29 L. ed. 158, 166, 1 Inters. Com. Rep. 382, 5 Sup. Ct. Rep. 826; Cooley, Const. Lim. 7th ed. 856. We have no hesitation, therefore, in pronouncing the act of June 25, 1910, a legal exercise of the power of Congress.'

Notwithstanding this disposition of the questions concerning the construction and constitutionality of the act, certain of the questions made are of sufficient gravity to require further consideration.

In the Diggs Case, after referring to the fact that the defendant had taken the stand in his own behalf, and that his testimony differed somewhat from that of the girls who had testified in the case, and instructing the jury that it was their province to ascertain the truth of the matter, the court further said: 'After testifying to the relations between himself and Caminetti and these girls down to the Sunday night on which the evidence of the government tends to show the trip to Reno was taken, he stops short and has given none of the details or incidents of that trip nor any direct statement of the intent or purpose with *493 which that trip was taken, contenting himself by merely referring to it as having been taken, and by testifying to his state of mind for some days previous to the taking of that trip. Now this was the defendant's privilege, and, being a defendant, he could not be required to say more if he did not desire to do so; nor could he be cross-examined as to matters not covered by his direct testimony. But in passing upon the evidence in the case for the purpose of finding the facts you have a right to take this omission of the defendant into consideration. A defendant is not required under the law to take the witness stand. He cannot be compelled to testify at all, and if he fails to do so, no inference unfavorable to him may be drawn from that fact, nor is the prosecution permitted in that case to comment

unfavorably upon the defendant's silence; but where a defendant elects to go upon the witness stand and testify, he then subjects himself to the same rule as that applying to any other witness, and if he has failed to deny or explain acts of an incriminating nature that **198 the evidence of the prosecution tends to establish against him, such failure may not only be commented upon, but may be considered by the jury with all the other circumstances in reaching their conclusion as to his guilt or innocence; since it is a legitimate inference that, could he have truthfully denied or explained the incriminating evidence against him, he would have done so.'

This instruction, it is contended, was error in that it permitted the jury to draw inferences against the accused from failure to explain incriminating circumstances when it was within his power to do so, and thus operated to his prejudice and virtually made him a witness against himself, in derogation of rights secured by the 5th Amendment to the Federal Constitution.

There is a difference of opinion expressed in the cases upon this subject, the circuit court of appeals in the eighth circuit holding a contrary view, as also did the *494 circuit court of appeals in the first circuit. See Balliet v. United States, 64 C. C. A. 201, 129 Fed. 689; Myrick v. United States, 134 C. C. A. 619, 219 Fed. 1. We think the better reasoning supports the view sustained in the court of appeals in this case, which is that where the accused takes the stand in his own behalf and voluntarily testifies for himself (Act of March 16, 1878, 20 Stat. at L. 30, chap. 37, Comp. Stat. 1913, § 1465), he may not stop short in his testimony by omitting and failing to explain incriminating circumstances and events already in evidence, in which he participated and concerning which he is fully informed, without subjecting his silence to the inferences to be naturally drawn from it.

The accused, of all persons, had it within his power to meet, by his own account of the facts, the incriminating testimony of the girls. When he took the witness stand in his own behalf he voluntarily relinquished his privilege of silence, and ought not to be heard to speak alone of those things deemed to be for his interest, and be silent where he or his counsel regarded it for his interest to remain so, without the fair inference which would naturally spring from his speaking only of those things which would exculpate him and refraining to speak upon matters within his knowledge which might incriminate him. The instruction to the jury concerning the failure of the accused to explain acts of an incriminating nature which the evidence for the prosecution tended to establish against him, and the inference to be drawn from his silence, must be read in connection with the statement made in this part of the charge which clearly shows that the court was speaking with reference to the defendant's silence as to the trip to Reno with the girls named in the indictment, and as to the facts, circumstances, and intent with which that trip was taken; and the jury was told that it had a right to take into consideration that omission.

The court did not put upon the defendant the burden *495 of explaining every inculpatory fact shown or claimed to be established by the prosecution. The inference was to be drawn from the failure of the accused to meet evidence as to these matters within his own knowledge and as to events in which he was an active participant and fully able to speak when he voluntarily took the stand in his own behalf. We agree with the circuit court of appeals that it was the privilege of the trial court to call the attention of the jury in such manner as it did to this omission of the accused when he took the stand in his own behalf.

See, in this connection, Brown v. Walker, 161 U. S. 591, 597, 40 L. ed. 819, 821, 5 Inters. Com. Rep. 369, 16 Sup. Ct. Rep. 644; Sawyer v. United States, 202 U. S. 150, 165; 50 L. ed. 972, 979, 26 Sup. Ct. Rep. 575, 6 Ann. Cas. 269; Powers v. United States, 223 U. S. 303, 314, 56 L. ed. 448, 452, 32 Sup. Ct. Rep. 281.

It is urged as a further ground of reversal of the judgments below that the trial court did not instruct the jury that the testimony of the two girls was that of accomplices, and to be received with great caution and believed only when corroborated by other testimony adduced in the case. We agree with the circuit court of appeals that the requests in the form made should not have been given. In Holmgren v. United States, 217 U. S. 509, 54 L. ed. 861, 30 Sup. Ct. Rep. 588, 19 Ann. Cas. 778, this court refused to reverse a judgment for failure to give an instruction of this general character, while saying that it was the better practice for courts to caution juries against too much reliance upon the testimony of accomplices, and to require corroborating testimony before giving credence to such evidence. While this is so, there is no absolute rule of law preventing convictions on the testimony of accomplices if juries believe them. 1 Bishop, Crim. Proc. 2d ed. § 1081, and cases cited in the note.

Much is said about the character of the testimony adduced and as to certain facts tending to establish the guilt or innocence of the accused. This court does not weigh the evidence in a proceeding of this character, and it is enough to say that there was substantial testimony tending to support the verdicts rendered in the trial *496 courts. Other objections are urged upon **199 our attention, but we find in none of them a sufficient reason for reversing the judgments of the Circuit Courts of Appeals in these cases.

The judgment in each of the cases is affirmed.

Mr. Justice **McReynolds** took no part in the consideration or decision of these cases.

Mr. Justice **McKenna,** dissenting:

Undoubtedly, in the investigation of the meaning of a statute we resort first to its words, and, when clear, they are decisive. The principle has attractive and seemingly disposing simplicity, but that it is not easy of application, or, at least, encounters other principles, many cases demonstrate. The words of a statute may be uncertain in their signification or in their application. If the words be ambiguous, the problem they present is to be resolved by their definition; the subject matter and the lexicons become our guides. But here, even, we are not exempt from putting ourselves in the place of the legislators. If the words be clear in meaning, but the objects to which they are addressed be uncertain, the problem then is to determine the uncertainty. And for this a realization of conditions that provoked the statute must inform our judgment. Let us apply these observations to the present case.

The transportation which is made unlawful is of a woman or girl 'to become a prostitute or to give herself up to debauchery, or to engage in any other immoral practice.' Our present concern is with the words 'any other immoral practice,' which, it is asserted, have a special office. The words are clear enough as general descriptions; they fail in particular designation; they are class words, not specifications. Are they controlled by those which ***497** precede them? If not, they are broader in generalization and include those that precede them, making them unnecessary and confusing. To what conclusion would this lead us? 'Immoral' is a very comprehensive word. It means a dereliction of morals. In such sense it covers every form of vice, every form of conduct that is contrary to good order. It will hardly be contended that in this sweeping sense it is used in the statute. But, if not used in such sense, to what is it limited and by what limited? If it be admitted that it is limited at all, that ends the imperative effect assigned to it in the opinion of the court. But not insisting quite on that, we ask again, By what is it limited? By its context, necessarily, and the purpose of the statute.

For the context I must refer to the statute; of the purpose of the statute Congress itself has given us illumination. It devotes a section to the declaration that the 'act shall be known and referred to as the 'White Slave Traffic Act." And its prominence gives it prevalence in the construction of the statute. It cannot be pushed aside or subordinated by indefinite words in other sentences, limited even there by the context. It is a peremptory rule of construction that all parts of a statute must be taken into account in ascertaining its meaning, and it cannot be said that § 8 has no object. Even if it gives only a title to the act, it has especial weight. United States v. Union P. R. Co. 91 U. S. 72, 82, 23 L. ed. 224, 229. But it gives more than a title; it makes distinctive the purpose of the statute. The designation 'white slave traffic' has the sufficiency of an axiom. If apprehended, there is no uncertainty as to the conduct it describes. It is commercialized vice, immoralities having a mercenary purpose, and this is confirmed by other circumstances.

The author of the bill was Mr. Mann, and in reporting it from the House committee on interstate and foreign commerce he declared for the committee that it was not ***498** the purpose of the bill to interfere with or usurp in any way the police power of the states, and further, that it was not the intention of the bill to regulate prostitution or the places where prostitution or immorality was practised, which were said to be matters wholly within the power of the states, and over which the Federal government had no jurisdiction. And further explaining the bill, it was said that the sections of the act had been 'so drawn that they are limited to the cases in which there is an act of transportation in interstate commerce of women for the purposes of prostitution.' And again:

'The White Slave Trade.—A material portion of the legislation suggested and proposed is necessary to meet conditions which have arisen within the past few years. The legislation is needed to put a stop to a villainous interstate and international traffic in women and girls. The legislation is not needed or intended as an aid to the states in the exercise of their police powers in the suppression or regulation of immorality in general. It does not attempt to regulate the practice of voluntary prostitution, but aims solely to prevent panderers and procurers from compelling thousands of women and girls against their will and desire to enter and continue in a life of prostitution.' Cong. Rec. vol. 50, pp. 3368, 3370.

In other words, it is vice as a business at which the law is directed, using interstate ****200** commerce as a facility to procure or distribute its victims.

In 1912 the sense of the Department of Justice was taken of the act in a case where a woman of twenty-four years went from Illinois, where she lived, to Minnesota, at the solicitation and expense of a man. She was there met by him and engaged with him in immoral practices like those

for which petitioners were convicted. The assistant district attorney forwarded her statement to the Attorney General, with the comment that the element of traffic was absent from the ***499** transaction and that therefore, in his opinion, it was not 'within the spirit and intent of the Mann Act.'[2] Replying, the Attorney General expressed his concurrence in the view of his subordinate.[3]

Of course, neither the declarations of the report of the committee on interstate commerce of the House nor the opinion of the Attorney General are conclusive of the meaning of the law, but they are highly persuasive. The opinion was by one skilled in the rules and methods employed in the interpretation or construction of laws, and informed, besides, of the conditions to which the act was addressed. The report was by the committee charged with the duty of investigating the necessity for the act, and to inform the House of the results of that investigation, both of evil and remedy. The report of the committee has, therefore, a higher quality than debates on the floor of the House. The representations of the latter may indeed be ascribed to the exaggerations of advocacy or opposition. The report of a committee is the execution of a duty and has the sanction of duty. There is a presumption, therefore, that the measure it recommends has the purpose it teclares and will accomplish it as declared.

***500** This being the purpose, the words of the statute should be construed to execute it, and they may be so construed even if their literal meaning be otherwise. In Church of the Holy Trinity v. United States, 143 U. S. 457, 36 L. ed. 226, 12 Sup. Ct. Rep. 511, there came to this court for construction an act of Congress which made it unlawful for anyone in any of the United States 'to prepay the transportation, or in any way assist or encourage the importation or migration of any alien or aliens, any foreigner or foreigners, into the United States . . . under contract or agreement . . . to perform labor or *service of any kind* [italics mine] in the United States, its territories or the District of Columbia.' The Trinity Church made a contract with one E. W. Warren, a resident of England, to remove to the city of New York and enter its service as rector and pastor. The church was proceeded against under the act and the circuit court held that it applied, and rendered judgment accordingly. 36 Fed. 303.

It will be observed that the language of the statute is very comprehensive,—fully as much so as the language of the act under review,—having no limitation whatever from the context; and the circuit court, in submission to what the court considered its imperative quality, rendered judgment against the church. This court reversed the judgment, and, in an elaborate opinion by Mr. Justice Brewer, declared that 'it is a familiar rule that a thing may be within the letter of the statute and yet not within the statute, because not within its spirit, nor within the intention of its makers.' And the learned justice further said: 'This has been often asserted, and the reports are full of cases illustrating its application.'

It is hardly necessary to say that the application of the rule does not depend upon the objects of the legislation, to be applied or not applied as it may exclude or include good things or bad things. Its principle is the simple one that the words of a statute will be extended or restricted to execute its purpose.

***501** Another pertinent illustration of the rule is Reiche v. Smythe, 13 Wall. 162, 20 L. ed. 566, in which the court declared that if at times it was its duty to regard the words of a statute, at times it was also its duty to disregard them, limit or extend them, in order to execute the purpose of the statute. And applying the principle, it decided that in a tariff act the provision that a duty should be imposed on horses, etc., and other *live animals* ****201** imported from foreign countries should not include canary birds, ignoring the classification of nature. And so again in Silver v. Ladd, 7 Wall. 219, 19 L. ed. 138, where the benefit of the Oregon Donation Act was extended by making the words 'single man' used in the statute mean an unmarried woman, disregarding a difference of genders clearly expressed in the law.

The rule that these cases illustrate is a valuable one and in varying degrees has daily practice. It not only rescues legislation from absurdity (so far the opinion of the court admits its application), but it often rescues it from invalidity,—a useful result in our dual form of governments and conflicting jurisdictions. It is the dictate of common sense. Language, even when most masterfully used, may miss sufficiency and give room for dispute. Is it a wonder, therefore, that when used in the haste of legislation, in view of conditions perhaps only partly seen or not seen at all, the consequences, it may be, beyond present foresight, it often becomes necessary to apply the rule? And it is a rule of prudence and highest sense. It rescues from crudities, excesses, and deficiencies, making legislation adequate to its special purpose, rendering unnecessary repeated qualifications, and leaving the simple and best exposition of a law the mischief it was intended to redress. Nor is this judicial legislation. It is seeking and enforcing the true sense of a law notwithstanding its imperfection or generality of expression.

There is much in the present case to tempt to a violation of the rule. Any measure that protects the purity of ***502** women from assault or enticement to degradation finds an

instant advocate in our best emotions; but the judicial function cannot yield to emotion—it must, with poise of mind, consider and decide. It should not shut its eyes to the facts of the world and assume not to know what everybody else knows. And everybody knows that there is a difference between the occasional immoralities of men and women and that syatematized and mercenary immorality epitomized in the statute's graphic phrase 'white slave traffic.' And it was such immorality that was in the legislative mind, and not the other. The other is occasional, not habitual,—inconspicuous,—does not offensively obtrude upon public notice. Interstate commerce is not its instrument as it is of the other, nor is prostitution its object or its end. It may, indeed, in instances, find a convenience in crossing state lines, but this is its accident, not its aid.

There is danger in extending a statute beyond its purpose, even if justified by a strict adherence to its words. The purpose is studied, all effects measured, not left at random,—one evil practice prevented, opportunity given to another. The present case warns against ascribing such improvidence to the statute under review. Blackmailers of both sexes have arisen, using the terrors of the construction now sanctioned by this court as a help—indeed, the means—for their brigandage. The result is grave and should give us pause. It certainly will not be denied that legal authority justifies the rejection of a construction which leads to mischievous consequences, if the statute be susceptible of another construction.

United States v. Bitty, 208 U. S. 393 52 L. ed. 543, 28 Sup. Ct. Rep. 396, is not in opposition. The statute passed upon was a prohibition against the importation of alien women or girls,—a statute, therefore, of broader purpose than the one under review. Besides, the statute finally passed upon was an amendment to a prior statute, and the words construed were an addition to the ***503** prior statute, and necessarily, therefore, had an added effect. The first statute prohibited the importation of any alien woman or girl into the United States *for the purpose of prostitution* [italics mine]. The second statute repeated the words and added '*or for any other immoral purpose.*' Necessarily there was an enlargement of purpose, and besides, the act was directed against the importation of foreign corruption, and was construed accordingly. The case, therefore, does not contradict the rule; it is an example of it.

For these reasons I dissent from the opinion and judgment of the court, expressing no opinion of the other propositions in the cases.

I am authorized to say that the CHIEF JUSTICE and Mr. Justice **Clarke** concur in this dissent.

All Citations

L.R.A. 1917F, 502, 242 U.S. 470, 37 S.Ct. 192, 61 L.Ed. 442, Am.Ann.Cas. 1917B, 1168

Footnotes

1 Sections 2, 3, and 4 of the act are as follows:
'Sec. 2. That any person who shall knowingly transport or cause to be transported, or aid or assist in obtaining transportation for, or in transporting, in interstate or foreign commerce, or in any territory or in the District of Columbia, any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose to induce, entice, or compel such woman or girl to become a prostitute or to give herself up to debauchery, or to engage in any other immoral practice; or who shall knowingly procure or obtain, or cause to be procured or obtained, or aid or assist in procuring or obtaining, any ticket or tickets, or any form of transportation or evidence of the right thereto, to be used by any woman or girl in interstate or foreign commerce, or in any territory or the District of Columbia, in going to any place for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent or purpose on the part of such person to induce, entice, or compel her to give herself up to the practice of prostitution, or to give herself up to debauchery, or any other immoral practice, whereby any such woman or girl shall be transported in interstate or foreign commerce, or in any territory or the District of Columbia, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding five thousand dollars, or by imprisonment of not more than five years, or by both such fine and imprisonment, in the discretion of the court.
'Sec. 3. That any person who shall knowingly persuade, induce, entice, or coerce, or cause to be persuaded, induced, enticed, or coerced, or aid or assist in persuading, inducing, enticing, or coercing any woman or girl to go from one place to another in interstate or foreign commerce, or in any territory or the District of Columbia, for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose on the part of such person that such woman or girl shall engage in the practice of prostitution or debauchery, or any other immoral practice, whether with or without her consent, and who shall thereby knowingly cause or aid or assist in causing such woman or

girl to go and to be carried or transported as a passenger upon the line or route of any common carrier or carriers in interstate or foreign commerce, or any territory or the District of Columbia, shall be deemed guilty of a felony and on conviction thereof shall be punished by a fine of not more than five thousand dollars, or by imprisonment for a term not exceeding five years, or by both such fine and imprisonment, in the discretion of the court.

'Sec. 4. That any person who shall knowingly persuade, induce, entice or coerce any woman or girl under the age of eighteen years, from any state or territory or the District of Columbia, to any other state or territory or the District of Columbia, with the purpose and intent to induce or coerce her, or that she shall be induced or coerced to engage in prostitution or debauchery, or any other immoral practice, and shall in furtherance of such purpose knowingly induce or cause her to go and to be carried or transported as a passenger in interstate commerce upon the line or route of any common carrier or carriers, shall be deemed guilty of a felony, and on conviction thereof shall be punished by a fine of not more than ten thousand dollars, or by imprisonment for a term not exceeding ten years, or by both such fine and imprisonment, in the discretion of the court.'

2 'Careful consideration of the facts and circumstances as related by Miss Cox fails to convince me that her case came within the spirit and intent of the Mann act. The element of traffic is entirely absent from this transaction. It is not a case of prostitution or debauchery and the general words 'or other immoral practice' should be qualified by the particular preceding words and be read in the light of the rule of ejusdem generis. This view of the statute is the more reasonable when considered in connection with § 8, where Congress employs the terms 'slave' and 'traffic' as indicative of its purpose to suppress certain forms of abominable practice connected with the degradation of women for gain.'

3 'I agree with your conclusion that the facts and circumstances set forth in your letter and its inclosure do not bring the matter within the true intent of the White Slave Traffic Act, and that no prosecution against Edwards should be instituted in the Federal courts unless other and different facts are presented to you.'

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