

Case No. 470.

[12 Pittsb. Leg. J. 220.]

ANONYMOUS.

District Court, D. New York.

Jan. 8, 1865.

FORFEITURE—INDECENT PICTURE.

[The importation of articles of merchandise incased in boxes embellished with pictures and fancy drawings “too indelicate for family use,” and of an indecent character, tending to the corruption of the public morals, come within the prohibition of the statute ordering the forfeiture of indecent and obscene articles.]

[Proceedings by United States against Amar Young, Bros. & Co. for the condemnation of certain articles of merchandise enclosed in boxes embellished with prints and pictures of an indecent and obscene character. Verdict of condemnation.]

Ethan Allen, Asst, U. S. Dist Atty., for the government.

Webster & Craig, for claimants.

An important issue was tried January 8th 1865 before his honor, Judge Betts, in the United States district court, involving the right of merchants to import merchandise containing articles of an indecent character, which resulted in the forfeiture of the merchandise brought before the court. Messrs, Amar Young, Bros. & Co., of Philadelphia, imported from Liverpool in January last quantity of linen handkerchiefs and linen shirt fronts, valued at \$10,000, which were contained in one hundred and sixty-five boxes, one dozen handkerchiefs in each box. Of these boxes about twelve were found to be embellished with pictures and fancy drawings, much too common in our shop windows, and known as “Susanna at the Bath,” “Diana and her Nymphs,” &c. &c. These goods were seized at the custom-house and brought into court for condemnation. It appeared from the evidence introduced for the defence that boxes, or cartoons, similar to those in questions were imported and sold at this port by the first class merchantile firms as freely as were the linen handkerchiefs which they contained, which were usually of the best quality of linen goods imported. The very merchants who confessed so readily to buying and to selling these “fancy boxes,” as they are styled, admitted, that they were “rather indelicate” for family use, but as the “fancy prints” helped the sale, they considered themselves fully justified in dealing in them as they had for years. Mr. Ethan Allen, for the government, urged upon the jury that these articles were indecent, because they were, in the language or some of the witnesses, “too indelicate for family use:” that if they ought not to go into the family they ought not to be permitted to enter the community, which was happily an aggregation of families; that these things were none the less indecent, because they had been for a long indecent, because they had been for a long time freely imported, and by the best and most immaculate of our mercantile firms. Neither time, nor the exalted character of the devotee, could purify debauchery, nor make indecency respectable. If the importation of

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such articles had become so common, that men of probity and high social position openly advocated the traffic, that fact of itself was an argument why the salacious, lewd current, which was setting towards our shores from Europe, and increasing in volume, should be stopped forthwith and forever.

The court charged, that if the jury found that the articles in question were indecent, so as to corrupt public morals, they were bound to condemn them; but if they found that the pictures were only of a coarse or vulgar nature, but insignification in themselves and harmless, however reprehensible it might be to deal in them, still in this view they were not within the meaning of the statute that ordered the forfeiture of indecent and obscene articles. The jury were not about half an hour, when they returned a verdict for the government.