

## UNITED STATES V. GOLDBACK.

{1 Hughes, 529:<sup>1</sup> 23 Int. Rev. Rec. 129; 9 Chi. Leg. News, 256.}

Circuit Court, E. D. Virginia.

April 6, 1877.

INTERNAL REVENUE—INFORMATION FOR  
VIOLATION OF SECTION 3430, REV. ST. U. S.

A parcel or package (in the sense of the clause of section 3437 of the Revised Statutes of the United States relating to lucifer matches) is a bundle put up in form and condition for handling or transportation, or delivery on sale from hand to hand; and, therefore, a match-box of capacity to hold less than one hundred matches, which contains two sliding drawers which are open on the top when drawn out, is but one package or parcel, inasmuch as each drawer is not of itself a parcel or package in the mercantile sense.

The defendant {Abraham Goldback} is a manufacturer of lucifer matches. As a novelty in his line of business, instead of putting up his matches in a box of one compartment, he provides two sliding drawers in each box, the drawers being open on top when drawn out, each holding about forty-two matches, and not large enough to hold by possibility as much as, or more than, fifty; the package holding from eighty to ninety matches. It is not pretended that there is any design on the part of the manufacturer to defraud the revenue. The information is in the nature of a friendly proceeding filed at the instance of the defendant, who wants the question of law tested and decided. Issues of fact as well as law are submitted to the court. Plea of not guilty.

L. L. Lewis, for the United States.

H. H. Marshall, for defendant.

HUGHES, District Judge. Section 3437 provides that friction matches, "in parcels or packages containing one hundred matches or less." shall be stamped with a one cent stamp on "each parcel or package." The

device of this manufacturer is a package but little if any greater in size than the ordinary matchbox; and it is so contrived that one-half of its contents may be used without disturbance to the other half. That, and its novelty, and not any design to defraud the revenue, are all that distinguish it from the ordinary match-box.

It is contended by the United States attorney that the two open drawers in each box are to be regarded as each a parcel or package, and that therefore the box itself should be stamped with two one cent stamps. A package, in the sense of section 3437, means a bundle put up for transportation, or commercial handling. It is a thing in form to become, as such, an article of merchandize, or transportation or delivery from hand to hand. A parcel is a small package; the word "parcel" being the diminutive of the word "package." Each word as used in section 3437 denotes a thing in form suitable for transportation or handling as an article of sale. Now the drawers in this match-box are not in that form. Taken separately, they are not in condition for mercantile shipment, or handling, or sale from hand to hand. These drawers therefore are not, each, parcels or packages in the meaning of section 3437. There has, therefore, been no violation of section 3430 of the Revised Statutes of the United States upon which this information is drawn, and there must be judgment of acquittal.

<sup>1</sup> [Reported by Hon. Robert W. Hughes, District Judge, and here reprinted by permission.]

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