

Case No. 16,430.

{6 McLean, 128.}¹

UNITED STATES v. TANNER.

Circuit Court, D. Ohio.

Oct Term, 1854.

VIOLATION OF POSTAL LAWS—TAKING LETTER FROM OFFICE—PROPERTY IN LETTER.

1. If a letter written to a certain individual was intended for the person to whom it was directed, and also for another person; and such other person is authorized by the writer to take the letter out of the post office and read it, by so taking out and reading the letter, there is no violation of the post office law.

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2. The person who writes a letter has a right to control its use, as it is his property.

[Cited in *U. S. v. M'Creedy*, 11 Fed. 231.]

3. The writer of a letter is entitled to an injunction to restrain the improper use of the letter, by the person to whom it is directed.

Mr. Morton, U. S. Dist Atty.

Swayne & Barber, for defendants.

OPINION OF THE COURT. This is an indictment against the defendant, for: taking a letter from the post office at Toledo, in Ohio, addressed to another person, with the view to pry into the secrets of such person. There is also a count for opening the letter. "Works Blum, lived in Toledo four years. In 1853, witness was in Toledo, went to Cleveland from Toledo, beginning of September. He expected a letter at Toledo, from St Louis, after he left. In eight days he received the letter at Cleveland. Witness says the letter had been opened by Tanner, but witness never authorized him to open the letter, when he received it from the post office. The witness never authorized the defendant to take the letter out of the post office. On complaint being made by witness, defendant was arrested, but was discharged by the committing magistrate. Mr. Young advised witness to pursue the case further. Mr. Snatcher saw the letter in the hands of his sister, who brought it to the house of witness. Defendant, when before the commissioner, admitted that he took the letter out of the post office.

Defendant's witnesses: Mr. Jamner, is acquainted with Blum, and with Myers, the writer of the letter, they both lived with witness. Myers and defendant talked about a letter to be written by Myers. Judge Fitch stated, that Myers, the writer of the letter, before he left Toledo, said he would write a letter to Blum, for both defendant and Blum. Several witnesses proved the good character of the defendant.

THE COURT instructed the jury that the writer of the letter had a right to control the use of it, it being his property; and that if they shall be satisfied the letter was written with the view that the defendant should read it, as well as the person to whom it was directed, the defendant is not guilty of a crime in taking the letter out of the post office, and opening it. Although the letter was directed to Blum, if Myers before writing it requested the defendant, or authorized him, to take the letter out of the office and read it, he had a right to do so, and the defendant is guilty of no violation of the post office law. Parties may correspond under assumed names, without any violation of law.

The jury found the defendant not guilty.

¹ [Reported by Hon. John McLean, Circuit Justice.]