

the date of their departure. On and after June 6th the collector was prepared to carry out the law according to its real intent, and all Chinese laborers departing from the port of San Francisco on and since that date, having had an opportunity to procure the required certificate, will be required to produce it.

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UNITED STATES v. CHESMAN.<sup>1</sup>

(Circuit Court, E. D. Missouri. March 30, 1881.)

INDICTMENT FOR MAILING AN OBSCENE AND INDECENT PUBLICATION.

An illustrated pamphlet, purporting to be a work on the subject of the treatment of spermatorrhœa and impotency, and consisting partially of extracts from standard books upon medicine and surgery, but of an indecent and obscene character, and intended for general circulation, held to come within the provisions of section 3893 of the Revised Statutes.

Indictment for depositing in the mail a publication of an obscene and indecent character. The indictment describes the publication as "a pamphlet entitled 'Prof. Harris' New Discovery for the Radical Cure of Spermatorrhœa and Impotency, with the Anatomy and Physiology of the Generative Organs, Illustrated; and the Science of a Radical Cure.' By his 'new departure' in the treatment of those troubles, viz., local absorption at the seat of the disease,"—which said publication is so indecent that the same would be offensive to the court here, and improper to be placed on the records thereof.

*William H. Bliss*, for the United States.

*Dyer, Lee & Ellis*, for defendant.

MCCRARY, J. In this case, by agreement, counsel have submitted to the court the question whether the publications complained of come within the provisions of section 3893 of the Revised Statutes, which prohibits the mailing in any post-office of any publication of an obscene or indecent character. We have considered this question after a full oral argument by counsel, and we are clearly of the opinion that the publications referred to in the indictment and information do fall within the provisions of this section of the statute. They are clearly both obscene and indecent, and, in our opinion, within the meaning of the statute. It is not necessary, perhaps, to say more, but I may remark that it has been insisted by counsel for the defendant, with great earnestness, that the publications in question are, in their character, medical, and that the matters complained of are, to a large extent, extracts from standard medical works. It may be, and probably is, true that much of the offensive matter is taken from books upon medicine and surgery, which would be proper

<sup>1</sup>Reported by Benj. F. Rex, Esq., of the St. Louis bar.

enough for the general use of members and students of the profession. There are many things contained in the standard works upon these subjects which, if printed in pamphlet form and spread broadcast among the community, being sent through the mail to persons of all classes, including boys and girls, would be highly indecent and obscene. I am not prepared to say, and it is not necessary now to decide, whether these medical books could be sent through the mails without a violation of the statute. The publications before us are not medical. It is manifest from an examination of them that they are intended to be circulated generally among the people. We decide at present nothing more than they come within the provisions of the statute, and that when deposited in the post-office, directed to any actual person, the law is violated, without regard to the character of the person to whom they are directed. This, perhaps, may be shown by way of mitigation or aggravation of the offense, but not in justification.

See, generally, *U. S. v. Kaltmeyer*, 16 FED. REP. 760, and *Bates v. U. S.* 10 FED. REP. 92, and note.

### TOWER v. BEMIS & CALL HARDWARE & TOOL Co. and others.

(Circuit Court, D. Massachusetts. February 28, 1884.)

#### 1. PATENTS—WHAT IS PATENTABLE—MERE AGGREGATION.

The mere combination in a convenient form of several devices, having no common purpose, is not patentable.

#### 2. SAME—IMPROVED MONKEY-WRENCH.

Patent No. 56,166, for an improvement in monkey-wrenches, cannot be held to cover every wrench in which the cam is solidly attached to the jaw, since similar arrangements were in use before the letters issued.

In Equity.

*D. Hall Rice*, for complainant.

*John L. S. Roberts*, for defendants.

LOWELL, J. The plaintiff owns patent No. 56,166, issued to Byron Boardman, July 10, 1866; and it is admitted that the invention was made in October, 1865. The patent is for an "improved tool," or, as the specification says, "an improved combination tool;" and "the [one] object of this invention is to combine a pipe-wrench with a monkey-wrench, in such manner that two of the jaws of the latter shall serve as gripping-jaws for firmly holding rods or pipes of varying diameters, which it may be desirable to turn." A second and third purpose are to combine a screw-driver with the handle of a wrench in certain convenient modes. Of the five claims, only two have been mentioned in this suit, and only one is said to be infringed; claim "1, as an improvement in monkey-wrenches, the combination of the cam, *n*, with