

Obscene

MINORITY MEMORANDUM

October 25, 1941

Remitter: Curtiss, Cecil Verne (68912)

Title: "Santa Claus Has a Candy Cane and Popcorn Balls ...."

Question: Does deposit constitute obscene subject matter?

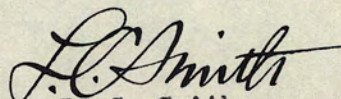
The deposit is of an unusual character, and contains on the first page, in addition to a drawing of Santa Claus, the following words--

"Santa Claus  
Has A Candy Cane and Popcorn Balls But Still Uses . . . ."

The four dots direct one's attention to an object which protrudes from the folded greeting card. When the folded card is opened the following wording appears, beneath which wording is the object to which reference has just been made, and which when the folder is opened is disclosed to be a miniature rubber glove. The only portion of the glove which can be seen when the folder is closed is the gauntlet end--

" . . . These to Keep His Hands from Chapping."

The application was made for the work in Class A. Mr. Pforzheimer and Mr. MacCarteney sustain the Examiner in recommending entry upon receipt of an application form A-1 giving the correct title. Mr. Smith, however, is of the opinion that the work should be rejected because of its obscene nature.

  
L. C. Smith



*Obscenity*

MAJORITY MEMORANDUM

October 25, 1941

Remitter: Cecil Verne Curtiss, No. 68912, Class A.

Title: "Santa Claus Has a Candy Cane and Popcorn Balls."

Question: Where a work presents an aspect of "double entendre," is the Office required to seize upon the improper aspect of the work and reject it upon the ground of obscenity?

The question of obscenity in this case was brought before the Revisory Board by Mr. Smith, who in a separate memorandum holds that the work should be rejected. It is of significance, however, that the Examiner originally examining the work saw nothing improper in it; nor did the Senior Correspondence Clerk who later perused the material prior to distributing it for correspondence. The Acting Chief of the Correspondence Section, likewise, saw no improper connotation and submitted it to the Revisory Board with the question as to whether it did not advertise an article of merchandise. Neither of the two undersigned members of the Board realized the import of the work until Mr. Smith explained.

The undersigned members of the Board are in agreement that where a work is obscene upon its face that it should be rejected upon the grounds of public policy. They fear, however, that in a case of this sort where the work had passed through so many hands without the question of obscenity being raised that to reject the material upon those grounds would lay the Office squarely open to disparaging remarks and questions from the applicant as to why it (the Office) should be constrained to read into a work an improper meaning where the majority of readers would see nothing improper to which to object. Mr. MacCarteney and Mr. Pforzheimer, accordingly, would enter the work in accordance with the Examiner's recommendation upon receipt of a new application giving the title taken from the copy.

Respectfully submitted

*R. S. MacCarteney*  
R. S. MacCarteney

*Walter L. Pforzheimer*  
W. L. Pforzheimer



*Obscenity*

MAJORITY MEMORANDUM

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