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I had a malignant breaking out on my leg below the knee, and was cured sound and well with two and a half bottles of S. S. S. Other blood medicines had failed to do me any good.

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On and after this date the following schedules will be run over its "Columbia Division."

No. 53—Leaves Columbia* ..... 5.20 p. m.
Arrives at Charleston ..... 9.30 p. m.
No. 52—Leaves Charleston* ..... 7.10 a. m.
Arrives at Columbia ..... 11.55 a. m.

Connecting with trains to and from all points on the Charlotte, Columbia & Augusta and Columbia & Greenville Railroads.
*Daily.

T. M. EMERSON, Gen. Pass. Agt
J. F. DEVINE, Gen. Supt.

ENGLISH PUBLICANS.

Teetotalers Exciting Political Feeling Against Them.

THE EUROPEAN LABOR SITUATION.

English Cutlers Dismayed at the Pending American Tariff Bill. Smuggling American Tobacco at Southampton—Stanley Calls on the Queen.

LONDON, May 8.—The opponents of the government's proposal to compensate publicans for the loss of their licenses through the contemplated reduction of the number of public houses are hard at work manufacturing public sentiment against that obnoxious clause of the budget. Although the proposition meets with the opposition of men of various political, religious and social views, the total abstainers are its most determined enemies. A meeting of the shining lights of the temperance party was held as the beginning of systematic warfare against the compensation plan, the Right Rev. Frederick Temple, bishop of London, presiding.

Earnest speeches were made against the measure and resolutions were passed protesting against the passage of such a bill without first appealing to and obtaining the sanction of the country. This procedure, it was contended, would show that the sentiment of the country is overwhelmingly opposed not only to the unjust discrimination involved in the proposition, but to the use of public money for any such purpose as the one indicated.

Bimetalists Mourn Senator Beck.

LONDON, May 8.—Mr. Henry I. Gibbs, formerly governor of the Bank of England, and now president of the Bimetallic League, has sent the following cablegram to Senator Jones, of Nevada, in the name of the Bimetallic League:

The friends of silver deeply regret the death of Senator Beck, whose services in the cause of monetary reform are most warmly appreciated on this side of the Atlantic. The Bimetallist party of the United Kingdom, now including over 190 members of the house of commons, attach the greatest value to the debate about to commence in your illustrious chamber. We fully recognize not only that the support afforded to silver by your legislation during the past twelve years has helped to protect the industrial world from an acute monetary crisis, but also that the debates in congress have served more than all else to educate our people to recognition of the importance involved.

All Serene at Madrid.

MADRID, May 8.—The strikers of all trades here are now pursuing their vocations quietly. In Valencia the civil guard was again called out and made a number of arrests. In Barcelona many of the strikers have resumed work, but both they and the guards are troubled by the pickets of the remaining strikers. The strike continues at Alcoy, Antequera and several other places.

Republicanism in Spain.

LONDON, May 8.—The labor troubles in Spain, although showing signs of abating, are causing much uneasiness in Madrid. This feeling is due to the fact that the disorder has been and still is wholly due to the agitation of the Republican leaders, who are inspiring the working men with ideas of greater liberty and higher pay under a popular form of government.

Tobacco Smuggled at Southampton.

LONDON, May 8.—The excise officers at Southampton made a raid upon a warehouse filled with recently imported goods with the result of discovering a large quantity of American tobacco which had been smuggled in under manifests calling for goods bearing a much lower duty. The tobacco was seized and the consignees will be prosecuted.

Portugal's Quarrel with England.

LISBON, May 8.—In the chamber of deputies Señor Ribeiro, minister of foreign affairs, stated that the government had reason to hope for an early and honorable settlement of the differences with England on terms which would be satisfactory to Portugal. He promised to lay the papers in the matter before the chamber.

The Bock Beer Festival.

BERLIN, May 8.—The annual tapping of the famous munchener hof bran bock beer at the royal brewery in Munich, took place, attended by the usual scenes of rejoicing. Thousands of persons were present and as the first comers would depart their places were filled by later arrivals.

Sheffield Cutlers Dismayed.

LONDON, May 8.—The leading manufacturers and dealers in cutlery are dismayed at the additional tariff put upon their products by the American congress and declare that the operation of the increased schedule will manifestly ruin the English hardware and cutlery trade.

Reduction in German Sheet Iron.

BERLIN, May 8.—The German sheet iron syndicate has reduced the price of that commodity by one-fourth. This action is due to the sharp foreign competition in respect of cheapness and excellence of quality.

Many Tailors on Strike.

LONDON, May 8.—The strike of the London tailors is rapidly spreading. Already 6,000 men are out and the probabilities are that those still working will join the strikers before the end of the week.

Will Not Enter Emin's Service.

LONDON, May 8.—Capt. Casati, the Italian explorer, denies the statement that he has entered the service of Germany.

Bishop of St. Albans.

LONDON, May 8.—It is expected that Canon Lefroy, of the diocese of London, will be made bishop of St. Albans.

The Queen Receives Stanley.

LONDON, May 8.—The queen received Henry M. Stanley at Windsor yesterday.

A New Railroad.

LIMA, O., May 8.—A railway deal which involves the building of 1,35 miles of railroad from Deming, N. M., to Polo Camo bay, in the Pacific coast, was closed here. The line is projected by B. C. Faurot, of this city, and will be known as the International railway. The amount to be invested $25,000,000.

FORTUNATE PITTSBURG.

Mr. Carnegie Offers an Art Gallery in Addition to the Library.

PITTSBURG, May 8.—Yesterday afternoon the library committee of city councils called upon Mr. Andrew Carnegie. The matter of equalizing representation on the library committee was discussed and satisfactorily adjusted. Mr. Carnegie made an eloquent address concerning his proposed library. The site most favored for the main building is the Bedford avenue water basin, owned by the city, located on the bluff in the rear of Union station. This building will consist of a library and music hall.

Mr. Carnegie also said that if one of the branches of the main library building should be located in the vicinity of the new Schenley park, he would add to his original offer, a gallery of American art, his idea being to erect an elegant hall, of large dimensions to be used entirely as a gallery for art purely American. To maintain this building Mr. Carnegie proposes to expend not less than $50,000 annually in the purchase of art works during his life time, and to provide in his will for an equal amount per annum when he dies. This institution Mr. Carnegie desires to be a perpetual monument to himself.

Judgment Against an ex-Governor.

NEW YORK, May 8.—Another judgment was filed in the county clerk's office against ex-Governor Cornell. The amount was $668.13, and Charles Tompkins was associated with ex-Governor Cornell as judgment debtor. The Garfield national bank was again the judgment creditor.

American Mechanics' Convention.

HARRISBURG, May 8.—The forty-third annual convention of the Senior Order of United American Mechanics of Pennsylvania was called to order in the hall of the house of representatives. About 150 councils are represented. At the close of 1889 there were 223 councils in good standing, two councils were dissolved and one failed to report. On Dec. 31 there were 13,661 members in good standing, 3,104 new members being added during the year; $123,480.15 was received from the subordinate lodges, and $98,027.48 was paid out on account of sick benefits. The balance in the hands of the treasurer was $48.29.

County School Superintendents.

PHILADELPHIA, May 8.—Triennial conventions of school directors were held in many counties of eastern Pennsylvania. The Berks county convention at Reading was a lively one and Professor William Zechman was elected county superintendent on the third ballot after an exciting contest with Professor Keck, the present incumbent. The Chester county convention at West Chester re-elected Joseph S. Walton. Professor R. F. Hoffecker was re-elected for the fourth term by the Montgomery county convention at Norristown. R. M. McNeal, of Steelton, was re-elected in Dauphin county.

Arrested for Criminal Libel.

OSWEGO, N. Y., May 8.—George A. Glynn and F. A. Thomas, editors and publishers of The Oswego Saturday World, will be arrested today on warrants sworn out by District Attorney Merrick Stowell, on the charge of criminal libel in connection with the famous Frost divorce case. Several witnesses who have been arrested for perjury will bring suits for damages for false imprisonment.

A Strange Case of Hydrophobia.

ALLIANCE, O., May 8.—Seven years ago a dog bit Laura Grim, the 12-year-old daughter of a wealthy farmer living at Harrisburg, Stark county, eight miles west of here. The wound healed and nothing more was thought of it until a week ago, when the child was attacked by undoubted symptoms of hydrophobia. She is now a raving maniac, having terrible paroxysms at the sight of water.

Struck by a Windlass.

WELLSBURG, W. Va., May 8.—Intelligence just received from California reports an accident by which Elder Patter, formerly pastor of the Disciples church of this place, lost his life. It seems that he was holding a rapidly revolving windlass, when it slipped from his grasp and struck him a blow on the head which resulted in his death.

Killed in Self Defense.

HUNTINGDON, Pa., May 8.—James Davis, aged 53, an engineer on the Lucy Furnace railroad, was shot and fatally wounded by his friend, William Soy. He had accused Soy of improper intimacy with Mrs. Davis and had attacked him with a knife. Soy apparently fired in self defense. Davis was intoxicated at the time.

A Southern Cyclone.

NATCHEZ, Miss., May 8.—A wind storm which visited this city and its vicinity leveled trees and chimneys and did other damage. The roofs of several buildings were badly damaged and that of The Democrat building, a three story structure, was carried away. The Methodist church at Vidalia was wrecked.

Levied on the Ball Grounds.

PITTSBURG, May 8.—The agent of the Denny estates, owners of the National League baseball ground (Recreation park), issued a warrant and levied on all of the goods within the park enclosure to satisfy nine months rent, amounting to $3,000. Thirty days are allowed the baseball people to pay the bill. Mr. Nimick says that the matter has been overlooked and will be settled at once.

Bursting Grindstones.

WILKESBARRE, Pa., May 8.—A remarkable accident occurred in the lower end of the city, at the file works, by which one side of the brick building was torn out and the iron roof wrecked. By some means the governor belt in the engine room slipped off its wheel, allowing the powerful engine which turns the six great grindstones to run away. The men who were working at the stones left them, as did the other men in the grinding room, and hurried out of the building. Hardly had they got safely out before two of the stones, each one of which was eight feet in diameter and two thick, attained such a velocity that they burst into fragments. The brick wall was pierced as if it were an eggshell. One larger piece passed through the ceiling between two girls who were in the polishing room and lodged in the roof with such force as to lift a large section of it from its fastenings. The damage is over $5,000.

There is a firm in Cincinnati which each years beats 21,000 gold dollars into gold leaf, and as each dollar can be beat into a sheet that will carpet two rooms 16½ feet square, some idea may be formed of its tenuity. It requires 1,400 sheets of gold leaf to equal in thickness a sheet of writing paper, and takes 280,000 of them, piled one upon the other, to equal an inch in thickness!

The largest sailing ship in the world is in the possession of France. She is a vessel with five masts, on four of which squaresail is carried. The length is 344 feet, with a beam of forty-nine feet. The cargo which the France could carry is 61,000 tons. The ship is built of steel, her masts and yards being of the same material. She is at present trading between France and the Pacific.

She Was Completely Cured.

A daughter of my customer suffered from suppressed menstruation, and her health was completely wrecked. At my suggestion she used one bottle of Bradfield's Female Regulator, which cured her. J. W. BELLUMS, Water Valley, Miss.

Write Bradfield Regulator Company, Atlanta, Ga., for particulars. By all druggists.

JAMES FRANK,

DEALER IN

FAMILY GROCERIES AND PROVISIONS

Agent for Reems Creek Woolen Mills

North Main Asheville, N. C.
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IMPORTANT SUPREME COURT DECISION.

Rights of Hotels Clearly Defined in a Very Able Opinion by Associate Justice Avery.

STATE VS. STEELE—DEFENDANT ACQUITTED AND JUSTIFIED.

Avery, J. (after stating the facts): It was formerly held by the Courts of England that where an inn-keeper allured travelers to his tavern by holding himself out to the public as ready to entertain them, and then refused to receive them into his house when he had room to accommodate them and after they had tendered the money to pay their bills, he was liable to indictment. But this doctrine (says Bishop, Vol 1 Sect. 532, Cr. Law) has little practical effect at this time, being rather a relic of the past than a living thing of the present. Reeks vs. Lewellyn, 12 Mod. Rep. 445. In a dictum in State vs. Matthews, 2 Dev. & Bat. 424, this old principle was stated with some qualification, viz, that all and every one of the citizens have a right to demand entertainment of a public inn-keeper, if they behave themselves and are willing and able to pay for their fare, and as all have a right to go there and be entertained, they are not to be annoyed there by disorder, and if the inn-keeper permits it he is subject to be indicted for a nuisance. Rennel vs. Schonbacker, 127 Penn St. Rep. 579. The duty and legal obligation resting upon the landlord is to admit only such guests as demand accommodation, and he has the right to refuse to allow even travelers who are manifestly so filthy, drunken or profane as to prove disagreeable to others who are inmates, and thereby to injure the reputation of his house, to enter his inn for food or shelter though they may be abundantly able to pay his charges. 2 Wharton Cr. Law section 1587; Reeks vs. Rymer, 13 Cox Cr. Law 378. The right to demand admission to the hotel is confined to persons who sustain the relation of guests and does not extend to every individual who invades the premises not in response to the invitation given by the keeper to the public, but in order to gratify his curiosity by seeing or his cupidity by trading with patrons who are under the protection of the proprietor. Wharton C. L. Sect. 625. The landlord is not only under no obligation to admit, but he has the power to prohibit the entrance of any person or class of persons into his house for the purpose of plying his guests with solicitations for patronage in their business, and especially is this true when the very nature of the business is such that human experience would lead us to expect the competing drummers in the heat of excitement, not only to trouble the guests by earnest and continued approaches, but by their noise or even strife. The guest has a positive right to demand of the host such protection as will exempt him from annoyance by such persons as intrude upon him without invitation and without welcome, and subject him to torture by a display of their wares or books, or a recommendation of their nostrums or business. That learned and accomplished jurist, Chief Justice Shaw, delivering the opinion in Commonwealth vs. Power, 7 Mete. 600, said: "An owner of a steamboat or railroad, in this respect, is in a condition somewhat similar to that of an inn-keeper, whose premises are open to all guests. Yet he is not only empowered but he is bound so to regulate his house as well with regard to the peace and comfort of his guests who there seek repose, as to the peace and quiet of the vicinity, and to repress and prohibit all disorderly conduct therein, and of course he has a right and is bound to exclude from his premises all disorderly persons and all persons not conforming to regulations necessary and proper to secure such quiet and good order." This principle was stated as an established one and used by the Court as an argument to sustain by analogy its ruling announced in a subsequent portion of the opinion that a railroad company had a right by its regulations to exclude from its depot and cars at any stations persons who visited them for the purpose of soliciting passengers to stop at particular hotels and one of the reasons given for holding the regulation reasonable, was, that where the agent urged the claims of their respective hotels "with earnestness and importunity, it was an annoyance to passengers." The doctrine is there laid down too, that persons other than passengers prima facie have the right to enter the depot of a railroad company, as others besides guests may go into hotels without making themselves trespassers, because in both instances there is an implied license given to the public to enter. But such licenses in their nature are revocable except in the one case as to passengers and in the other as to guests, who have the right to enter the train, ticket office or hotel as the case may be, if they are sober, orderly and able to pay for transportation or fare. The Court went further in that case and held that in enforcing the reasonable regulation against drummers for hotels at the depot, the servants of the railway company were not guilty of an assault for expelling by force, not excessive, a person, who had repeatedly violated the regulation by going upon the platform and soliciting for a hotel, though on the particular occasion when he was ejected from it, he had a ticket and intended to take the train destined for another town but failed to disclose to such servants the fact that he entered for "another purpose, when it was in his power to do so." Were we to follow the analogy to which the principle laid down in that case would lead, an inn-keeper could not only make and enforce a regulation forbidding persons to come on his premises for the purpose of soliciting his guests to patronize the livery stables that they might represent, but he might, in enforcing the rule against one, who had previously violated it after notice, that he should not do so, put such person off his premises, without excessive force, though at the particular time the person had entered with the bona fide intent to become a guest at the hotel, but failed to announce his purpose, or under the same principle he might expel by force one who becomes a guest and takes advantage of his situation to subject other inmates of the house to the annoyance of drumming for such establishments. The same distinction is drawn between guests and others who enter a hotel intent on business or pleasure by the Courts of Pennsylvania. In Com. vs. Mitchell, 1 Phil. (Pa.) 63 and Com. vs. Mitchell, 2 Pars. (Pa.) Sel. Cases 431, it was held that an inn-keeper is bound to receive and furnish food and lodging for all who enter his hotel as guests and tender him a reasonable price for such accommodation; but "if an individual (other than a guest) enters a public inn and his presence is disagreeable to the proprietor or his guests, he has a right to request the person to depart and in case of refusal to lay his hands gently upon him and lead him out and if resistance is made, to employ sufficient force to put him out without incurring liability to indictment for assault and battery."

Justice Story, in Jencks vs. Coleman, 2 Sumner's Rep. 224, discussed the doctrine to which we have referred that the right even of one who pays for his passage on a steam-boat or railway is subject not only to the limitation, that he shall be sober and shall not be guilty of such nuisance or make such disturbance as shall annoy other passengers or whose characters are doubtful, dissolute, suspicious or unequivocally bad, but to the further restriction that he may be refused admittance or expelled, after he enters the boat or car if it appear that his object is to interfere with the interests or patronage of the proprietors (or company) so as to make the business less lucrative to them." In the case last cited the proprietors of the boat Franklin had entered into a contract to run a line of stages between Boston and Providence in connection with the boat, which was running from New York to Providence. The plaintiff Jencks had been in the habit of coming on board the boat at Newport to solicit passengers for an opposition line of stages between Providence and Boston, thus interfering with the business of the owners of the boat and the arrangement made by them for their own profit and advantage with a different line from that represented by said plaintiff, just as in the case at bar the proprietors of the hotel had entered into a contract with one Sevier by which they were to receive ten per centum of the amount realized by him for the hire of carriages to the guests of the Battery Park hotel. Justice Story too, runs the parallel between the hotel and boat line just as Chief Justice Shaw did between the inn and the railway company, but with the marked difference that the former goes much further in tracing the analogy, that makes the public house subject to some of the same liabilities created and entitled to the full measure of protection afforded by law to companies engaged in transporting passengers. In discussing the principle he says "A case still more strongly in point and which, in my judgment completely meets the present is that of an inn-keeper. Suppose passengers are accustomed to breakfast or dine or sup at his house and an agent is employed by a rival house, at the distance of a few miles, to decoy the passengers away the moment they arrive at the inn. Is the inn-keeper bound to entertain and lodge such agent and thereby enable him to accomplish the very objects of his mission to the injury or ruin of his own interests? I think not."

In the case on Barney vs. Steamboat Co. 67 N. Y. 362, the Court of Appeals held that a company running a line of steamboats for transporting passengers had a right to establish in connection with their boats an agency for the delivering of baggage at the terminus and that one who had had the contract to transfer such baggage upon similar terms two years before, could be expelled and refused as a passenger, if after notice he would not discontinue his efforts to induce passengers to employ him in the same capacity rather than an expressman with whom the company had entered into a later agreement for their own pecuniary interest to deliver the baggage of its passengers. All of the authorities that we have cited above are collated and approved in Angell on Carriers in sections 530 and 530a and 530b.

In the case of Harris vs. Stevens, 31 Vermont 79, it was held that when a railway company erected station houses it impliedly opened the doors of them to every person to enter, but that the license was revocable as to all persons except those who had legitimate business there, growing out of the operation of the road and with the officers or employees of the company and that the corporation had the right to direct all other persons to leave the depot or ticket office and on their refusal to depart, to remove them. It was further held in the same case that it was a reasonable regulation to require every one who expected to take the train and desired to remain in the station house for that purpose, to purchase a ticket and that the servants of the company would be justified in expelling without excessive force one who did not declare his purpose to buy a ticket and actually buy it within a reasonable time, or one who had bought a ticket even if he failed to disclose that fact when requested to leave.

In the recent case of Old Colony Co. vs. Tripp, 147 Mass. 35, the Court laid down the rule in reference to the rights of persons at depots as follows:—"Passengers taking and leaving the cars at the station and persons setting down passengers or delivering merchandise or baggage for transportation from stations or taking up passengers or receiving merchandise that had been transported to the station had a right to the building and grounds superior to the right of the plaintiff (corporation) to exclusive occupancy." And it is further held to be the correct construction to be placed on a statute passed by the legislature, giving to all persons equal terms, facilities and accommodations for the use of its depot and other buildings and grounds, that it was intended only to govern the relation between the common carrier and its patrons and hence that a railroad company even in the face of such a statute, had a right to contract with an individual to furnish the means to carry incoming passengers or their baggage and merchandise from its stations and may grant to him the exclusive right to solicit the patronage of such passengers.

Upon a review of all the authorities accessible to us and upon the application of well established principle of law to the admitted facts of this particular case we are constrained to conclude that there was error in the charge given by the Court to the jury because.

1. Guests of a hotel and travelers or other persons entering it with the bona fide intent of becoming guests cannot be lawfully prevented from going in or put out by force after entrance, provided they are able to pay the charges and tender the money necessary for that purpose, if requested by the landlord, unless they be persons of bad or suspicious character or of vulgar habits or so objectionable to the patrons of the house on account of the race to which they belong that it would injure the business to admit them to all portions of the house or unless they attempt to take advantage of the freedom of the hotel to injure the landlord's chances of profit derived either from his inn or any other business incidental to or connected with its management and constituting a part of the provisions for the wants or pleasure of his patrons. Jencks vs. Coleman, supra; Com. vs. Mitchell supra; Com. vs. Power, supra; Pinkerton vs. Woodard, 91 a. m. Dec. 660; Barney vs. Steamboat Co. supra; 1 Wharton's Cr. L. Sect. 621; Angell on Carriers, Sect. 525, 529 and 531; Brittains vs. Railroad Co. 88 N. C. 536.

2. When persons unobjectionable on account of character or race enter a hotel not as guests but intent on pleasure or profit, to be derived from intercourse with its inmates, they are there not of right but under an implied license that the landlord may revoke at any time, because barring the limitation imposed by holding out inducements to the public to seek accommodation at his inn, the proprietor occupies it as his dwelling house from which he may expel all who have not acquired rights growing out of the relation of guests and must drive out all who, by their bad conduct create a nuisance and prove an annoyance to his patrons. Harris vs. Stephens, 31 Vt. 79; 1 Wharton's Cr. L. Sect. 623.

3. The regulation, if made by any inn-keeper that the proprietors of livery-stables and their agents or servants, shall not be allowed to enter his hotel for the purpose of soliciting patronage for their business from his agents, is a reasonable one and after a notice to desist, a person violating it, may be lawfully expelled from his house if excessive force be not used in ejecting him. Com. vs. Power, supra; Harris vs. Stephens, supra. See also Grizwald vs. Webb, recently reported in 41 Alb. Law Jour. 351 (a Rhode Island case); Old Colony Co. vs. Tripp, supra.

4. An inn-keeper has unquestionably the right to establish a news-stand or a barber shop in his hotel and to exclude persons who come for the purpose of vending news-papers or books or of soliciting employment as barbers and in order to render his business more lucrative he may establish a laundry or a livery-stable in connection with his hotel or contract with the proprietor of a livery-stable in the vicinity to secure for the latter as far as he legitimately can the patronage of his guests in that line for a per centum of the proceeds or profits derived by such owner of vehicles and horses from dealing with the patrons of the public house. After concluding such a contract, the inn-keeper may make, and after personal notice to violators, enforce a rule excluding from his hotel the agents and representatives of other livery stables who enter to solicit the patronage of his guests, and where one has persisted in visiting the hotel for that purpose after notice to desist, the proprietor may use sufficient force to expel him if he refuse to leave when requested, and may eject him even though on a particular occasion he may have entered for a lawful purpose, if he does not disclose his true intent when requested to leave, or whatever may have been his purpose in entering, if he in fact has engaged in soliciting the patronage of the guests. Barney vs. Steamboat Co. supra; Jencks vs. Coleman, and Harris vs. Sneeden, supra; Angell on Corporations, Sect. 530.

5. The broad rule laid down by Wharton (1 Cr. L. Sect. 625) is that the proprietor of a public house has a right to request a person who visits it, not as a guest or on business with guests, to depart, and if he refuse, the inn-keeper has a right to lay his hands gently on him and lead him out, and if resistance be made, to employ sufficient force to put him out. For so doing he can justify his conduct on a prosecution for assault and battery." It will be observed that the author adopts in part the language already quoted from the Courts of Pennsylvania

6. If it be conceded that the prosecutor went into the hotel at the request of a guest and for the purpose of conferring with the latter on business, still in any view of the case if after entering, he engaged in "drumming" for his employer when he had been previously notified to desist in obedience to a regulation of the house, the defendant had a right to expel him if he did not use more force than was necessary; and if the prosecutor having entered to see a guest, did not then solicit business from the patrons of the hotel, but had done so previously, the defendant seeing him there, had a right to use sufficient force to eject him, unless he explained when requested to leave what his real intent was. Harris vs. Stevens, and Com. vs. Power, supra. The guest by sending for a hackman could not delegate to him the right to do an act for which even the guest himself might lawfully be put out of the hotel.

7. If we go further and admit for the sake of argument that the principle declared in Markham vs. Brown, 8 N. H. 200 and relied on to sustain the view of the Court below, is not inconsistent with the law on the same subject, as we find it laid down by Wharton and other recognized authorities, still our case will be found to fall under the exception to the general rule stated in express terms in that case. The Court said "Where one comes to injure the inn-keeper's house, or it his business operates directly as an injury, that may alter the case, but that has not been alleged here. Perhaps there may be cases in which he may have a right to exclude all but travelers and those who have been sent for by them. It is not necessary to settle that at this time." There was no evidence in Markham vs. Brown, that the proprietor of the hotel had any contract with any other stage line or would suffer pecuniary loss or injury, if the agent who was expelled were successful in his solicitations, and it seems that Ansell and others who cite as authority that case, as well as Jencks vs. Coleman and Barney vs. Steamboat Co. reconcile them by drawing the distinction that in the latter cases and in the hypothetical case of an inn-keeper, put by Justice Story, the person whose expulsion was justified was doing an injury to the proprietor who had him removed, by diminishing his profits derived legitimately from a business used as an adjunct to that of common carrier or inn-keeper. In using the language quoted above Justice Parker, seems to have had in his mind, without referring to it, the opinion of Justice Story delivered in the circuit court but two years before.

8. The defendant as manager of the hotel could make a valid contract for a valuable consideration with Sevier to give him the exclusive privilege of remaining in the house and soliciting patronage from the guests in any business that grew out of providing for the comfort or pleasure of the patrons of the house. The proprietors of the public house might legitimately share in the profits of any such incidental business, as furnishing carriages, buggies or horses to the patrons, and for that purpose had as full right to close their house against one who attempted to injure the business in which they had such interest, as the owner of a private house would have had, and this view of the case is consistent with the doctrine enunciated in Markham vs. Brown. There was no evidence tending to show that Chambers had actual permission from the proprietors to approach the inmates of the hotel on the subject of patronizing him, nor that they had actual knowledge of the fact that he had continued his solicitations after receiving a similar notice to that sent to the prosecutor. The fact that he was overlooked or passively allowed to remain in the hotel it may be under the impression on the part of the defendant that he had desisted from his objectionable practices) cannot in any view of the law work a forfeiture of the right to enforce a reasonable regulation, made to protect their legitimate business from injury. If therefore a permit on the part of the defendant to Chambers to "drum" gratuitously in the house, would at once have opened his doors to all of the competitors of the latter (a proposition that we are not prepared to admit) the defendant did not so far as the testimony discloses the facts speak to him on the subject, and the soundness of the doctrine that without interfering with the legal rights of the guest, the proprietor of a hotel is prohibited by the organic law from granting such exclusive privileges to any individual as to the use or occupancy of his premises, as any other owner of land may extend, is not drawn in question.

We therefore sustain the second and third assignments of error. His Honor erred for the reasons given in instructing the jury that the guilt of the defendant depended upon the question whether he permitted Chambers or Sevier to solicit custom in the house. He had a lawful right to discriminate for a consideration in favor of Sevier, while it does not appear from the evidence that he granted any exclusive privileges to Chambers.

We hold that the regulation was such a one as an inn-keeper had the power to make, and must not be understood as approving the idea that the sanction of the municipal authorities could impart validity to it, if it were not reasonable in itself, and within the powers which the law gives to proprietors of public houses in order that they may guard their own rights and protect their patrons from annoyance. For the reasons given the defendant is entitled to a new trial.

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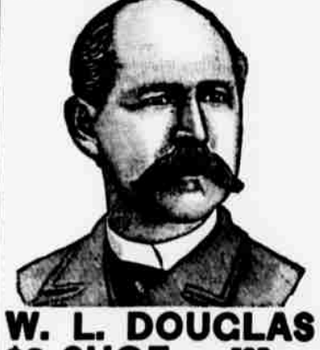

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