

## SALOON KEEPER RESPONSIBLE FOR EMPLOYEE'S ACTS

Holding that the element of intent is not an ingredient of the crime of selling liquor to a minor, the supreme court in an opinion written by Justice Burnett, has announced it to be the legal doctrine of this state that, where liquor is sold by a bartender to a person under age, the saloon-keeper is liable and subject to prosecution.

The decision was rendered in the test case of State vs. E. G. Brown, who was indicted for selling intoxicating liquor to a minor in Jackson county. The indictment charged that the sale was made through Brown's bartender, and that Brown had no knowledge of it. Further, it alleged that Brown had given instructions to his bartenders to sell no liquors to minors, and that the minor, in procuring the liquor, represented himself to be over 21 years of age. The defense demurred to the indictment on the ground that it did not state facts sufficient to constitute a crime and on the ground that Brown was not liable criminally. Circuit Judge Calkins sustained the demurrer, appeal was taken by County Attorney Kelly, and the supreme court reverses the decision. The cases will be tried at the February term.

### Opinion of Court

"It is not directly so stated, but we assume in favor of the defendant, as the parties evidently intended, that he was conducting a place where intoxicating liquors were sold under a regular license and employed a bartender in the prosecution of his business," said Justice Burnett, in part. "On this assumption, coupled with the amended form of the indictment set forth, we find that, apparently, the authorities are in a hopeless conflict as regards the culpability of the defendant, under such circumstances."

"Precedents in his favor proceed upon the theory that no one can commit crime in the absence of intent to do so. This is the keynote if all utterances on that subject, so far as our investigation goes, and there are many eminent jurists who express this doctrine with great persuasiveness. Decisions to the contrary are based upon the doctrine that, in statutory crimes, unless there is incorporated into the legislative definition the element of knowledge on the part of the defendant the intent with which an act was done is not an ingredient of the offense. This feature is a differentiating characteristic between the two classes of cases. The courts of this state are committed to the latter doctrine."

### Employer Responsible

"With the understanding that the bartender was an employee of the defendant in the conduct of a licensed business, the defendant is directly concerned in the traffic. It is he who, of all others, makes it possible for the bartender to commit the act forbidden by the statute. He furnishes the liquor to sell and the place in which it is sold. He employs agents for that purpose who carry on the business for him. Responsible to the state under his license, he must take the risks of the business at his peril and see that his employees obey the law. If we would derive profit from the venture in the hands of his employee, he must accept the hazard with the benefit."

"Here was a sale. From whom? To whom? The answer is plain that it was from the defendant to the minor. It involves the passing of property from the former to the latter for a valuable consideration. The bartender is not shown to have any interest in the property. The defendant derived whatever profit accrued from the transaction. Having engaged himself with the bartender in the business, he is liable like the bartender, and with him for any act done in the pursuance of the undertaking. Reason is found in the fact that the intent is not made an element of the statutory offense, so that the defendant is liable like the bartender, and with him for any act done in the pursuance of the undertaking. Reason is found in the fact that the intent is not made an element of the statutory offense, so that the defendant is liable in like manner as his agent, employed to conduct the business."

## FRENZIED FINANCE OF PERE MARQUETTE

DETROIT, Dec. 2.—Further efforts to trace the disposition of millions of dollars received by the Pere Marquette railroad from the sale of bonds were to be made today at the hearing before Commissioner H. C. Hall of the interstate commerce commission, who is in Detroit conducting an investigation of the road's financial condition.

## HIGHER PRICES FOR FRUIT IN BRITISH MARKET

Dennis & Sons' London circular, dated November 13, says:

"During the past week arrivals have been somewhat lighter and we are pleased to report an improvement in the market all round, in consequence. On bartered stocks, both apples and pears, prices are higher, which state of things we are hoping will continue from now on."

The stocks of Keiffer pears here at present will not satisfy the demand at ruling prices, and we anticipate that these prices will maintain themselves for the time being until heavier shipments again come forward. Good, hard stocks of best quality fruit are badly wanted and would realize 22s or 23s per barrel for Western New York State Keiffers, and about 17s 6d for Hudson River Keiffers, and there have in fact been a few parcels sold on this market during the past few days at these prices.

### Pears in Demand

For best pears such as Comice, d'Anjou, etc., there is a good demand, but prices are only moderate for Winter Nellis pears, there being still large arrivals of these by each boat. These ranged from 9s to 13s, the bulk realizing 10s to 12s per box.

As regards bartered apples, the great bulk of the arrivals are Nova Scotians, of which the s. s. North Point brought some 18,000 barrels, which landed in good condition in spite of a somewhat prolonged voyage. These met with an improved market at prices ranging from 13s 6d to 14s for Kings and Blenheims, 12s to 13s 6d for Ribstones. These prices we are hoping to see maintained, as home-grown red varieties are at an end, and these stocks will fill the requirements of that trade. Some good Maine Baldwins or Virginia York Imperials we are convinced would realize satisfactory prices.

There is also an improvement to be recorded on boxed apples, California Newtowns being a brisk trade at 5s 6d for the four tiers and 5s 3d to 5s 6d for four and one-half tier fruit, with a rising tendency.

### Liverpool Market

In Liverpool also we have to report an improvement all round, both as regards bartered apples and pears. Keiffers are a good trade and have realized from 21s to 23s per barrel for good hard Western New York stock, and other bartered pears have also done well at the prices reported overleaf.

California Newtowns are a little better trade and four tiers are wanted at 5s 6d. The four and one-half tier size is not so well received in Liverpool, and are slow at 5s. The proportion of small-sized fruit seems rather larger this season than usual.

## GERMANS CLAIM CAPTURE STRONG FRENCH POSITION

BERLIN, Dec. 2, by wireless.—The German official statement issued today claims the capture of a strong French position in the Argonne forest by Emperor Williams' own regiment.

The text of the communication reads: "In the western theater of the war the enemy made insignificant advances which were checked."

"In the forest of Argonne a strong point of support of the enemy was taken by the Wuertemberg infantry regiment No. 120, his majesty, the kaiser's own regiment. On this occasion two officers and about 300 of the enemy's troops were made prisoners."

"There is no news from eastern Prussia."

"In northern Poland battles are taking their normal course."

"In southern Poland the enemy's attacks were repulsed."

"The report circulated in the foreign press that the 23,000 prisoners taken at Kutno are included in the 40,000 Russian prisoners reported by us previously, is untrue."

"In the battles at Wloclawek, Kutno, Lodz and Lowicz, the eastern army has taken between the 11th of November and the 1st of December over 80,000 unwarmed Russian prisoners."

## TAX LEVY RAISE BY PROHIBITION

GRANTS PASS, Dec. 2.—Prohibition has caused an increase of four mills in the city levy, despite the utmost pruning and economy, and Grants Pass will pay just double in taxes the amount paid the present.

In making up its budget upon which the levy was based, the council, at its meeting Monday night, was obliged to include a special levy of four mills to cover the interest on the railroad bond issue, this levy being provided for in the ordinances covering the issue. Another four mill levy was also made necessary because of the loss of the revenue heretofore derived from the saloon licenses. Having voted to dispense with the saloon in Grants Pass it was up to the council to meet this loss of revenue by direct taxation, hence another four mills added to the levy, making the total levy for city purposes, general and special, 16 mills, eight mills general and eight mills special.

## CHILDREN'S PLAY ATTRACTS ATTENTION OF DRAMA LEAGUE

The Drama league is greatly interested in the very promising Swedish entertainment which the Roosevelt school has been conscientiously preparing for some time. Work of this nature is just what the league is trying to promote and encourage. Its educational departments consider dramatic interpretations the most natural and effectual means of unfolding the child mind to a point where in later years he will have acquired imaginative conception, which alone can enable him to grasp and apprehend concepts presented to him in dramatic forms and terms. This work cannot begin too early in the child's development, and he in turn is equipped even in babyhood for a full and eager response both in understanding and mimicry to the art which interprets life as no other art can. Therefore, in the light of this knowledge and conviction, the Drama league fully recognizes and realizes the ever hinted possibilities in this branch of its work and makes every effort to support any undertaking which makes for this development in the child.

Accordingly, each member of our center is earnestly urged to support by his attendance this very good entertainment, which is to be given at the Page theater Friday afternoon at 3 o'clock.

## SUPPLIES NEEDED FOR CHARITY

We need clothing for women and children, the latter especially; also shoes for children. Food and vegetables always acceptable. We are grateful to those who have thus far so generously helped us in our work and for their contributions. Those who can give employment to men or women, even for a day or two each week, will oblige by letting us know. We make careful investigations before helping those that apply to us and find conditions worthy of our consideration.

Poverty is not as common as in towns of this size in the east, and this speaks well for Medford. We should all aim to make this organization a permanent institution. The aim of the organization should be not only to help the poor and needy, but to prevent conditions requiring help. Office Holland building.

### Why Not

Get the best smoke, Gov. Johnson, and also patronize home.

## INJURED PRIDE CAUSES CHILD TO ATTEMPT SUICIDE

A Berkeley dispatch to San Francisco papers dated Nov. 28 contains the following pathetic account of the attempt at suicide by the eleven year old daughter of B. H. Harris, formerly of Medford. Taunts of school mates caused the child to swallow poison. The account reads:

"Five," writes Sir James Barrie in his story of "Wendy and Peter Pan," is "always the beginning of the end," when children learn that they have to grow up. But it was a little later than that for Gertrude Harris, whose mother makes pastries in her home at 2147 Ward street, Berkeley, which Gertrude sells to the neighbors and to strangers as far away as North Oakland; and whose father lies helpless in a Panama hospital, his mind clouded by jungle fever and exposure in the swamp region of the Isthmus.

Gertrude is the unhappiest girl in her school, she believes.

"I don't believe in fairies," she says in solemn disillusionment, now. "I'm 11."

And if emotional experience is what really counts and not years, Gertrude is sadder and sadder and older than even her teachers.

She is the same little girl who a few days ago bought ant poison and ate of it in unhappiness, and who fell fainting on a street car in a strange man's arms. Her life was saved, and she is repentant, but she is no happier.

It was said at the time that Gertrude sought to die because she was penniless. That is true, she says, and her mother says the same thing. But it wasn't because she was hungry; her mother works too hard to let her know the pangs of hunger.

She did not, she gravely tells us, spend some of the money which was paid for the pastries her mother had made, in order to taste of confections, and then buy the poison in sudden repentance. The real "motive," as the experts would call it, was something harder to bear than hunger.

Sorrow of Childhood  
Her pride was hurt. She knew the bitterest adversity of childhood. Her clothes were different from those of the other small girls in her school, and the luncheon she sometimes carried was not so neatly and daintily made. And for these signs of poverty her playmates, childlike, taunted her until the tears welled into her eyes. Then they learned that her father was far away, and they heard gossip which wasn't true. They knew also that her mother toiled late at night and all day, and this fact barred Gertrude from the gatherings which the others enjoyed.

Last Monday Gertrude was very

miserable. She had been teased, and she had become morose. She had reflected also on a white "fib" she told her mother, and dreaded to go home. So she went over to the store and bought the ant poison. The rest has been told before.

"She doesn't look like a starving child, does she?" asked her mother, anxiously. "Of course, she is poor, for her father has been away and sick for a year, but I have kept food for the four children. I have to work at home, because the others are

younger than Gertrude and need constant care. And the girl never took a cent in her life that didn't belong to her, not until she bought the ant poison."

All of this Gertrude assents to, so will not do the thing again, she says.

The coming legislature should pass resolutions limiting the number of bills to be introduced by each senator or representative to five, and no more.

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