

DRINKS, DRINKERS, AND DRINKING.

one who, although usually sober and temperate in his habits, yet occasionally indulges in drunken debauches which sometimes end in *delirium tremens*. *Mutual Benefit Life Ins. Co. v. Hotterhoff*, 2 Cin. Sup. Ct.

To say that a man is "intemperate," does not necessarily imply that he is in the habit of getting drunk. *Mullidex v. People*, 76 Ill. 211. We fancy, however, the courts would not hold the converse of this.

A "saloon keeper" is one who retails cigars, liquors, *et hoc genus omne*. *Cahil v. Campbell*, 105 Mass. 60.

In England, one who on Sunday walked to a spa two and a half miles away from his home for the purpose of drinking the mineral water for the benefit of his health, and then took some ale at an hotel (to keep the water down, we suppose), was held by the Court of Common Pleas to be a "traveller." *Pepler v. Richardson*, L. R., 4 C. P. 168.

England is a small country. One cannot travel far in any direction there without getting his feet damp, like Kanute and his friends. We presume this is why what would here be called "taking a stroll" is there dignified by the name of "travelling."

In considering the question of selling liquor to a "minor," the court held that the fact that a youth wore a beard, and said that he was 21, was no proof that he was an adult. *Gelty v. State*, 41 Ind. 162.

The Bench doubtless believed that although every American boy may become President, still every one is not a George Washington; but that, as Mark Twain says, "Some Americans will lie." As to beards, nature occasionally "bursts out with a chin-tuft" before her turn, or where she should not.

Now as to "place." Judges do not exactly know, at least when on the bench—what a "saloon" is. They say that it does not necessarily import a place to sell liquors; that it may mean a place for the sale of general refreshments, *Kelson v. Mayor of Ann Arbor*, 26 Mich. 325; or that it may mean a room for the reception of company, or for an exhibition of works of art, etc. *State v. Mansker*, 36 Tex. 364. This latter idea shows how

high-toned Texan judges are, and that they have travelled in foreign parts. Neither an enclosed park of four acres in extent, nor an unenclosed and uncovered platform, erected for the votaries of the Terpsichorean art, and where lager beer is sold, can rightly be considered a "saloon," or a "house," or "building," within the meaning of the Connecticut statute forbidding Sunday selling of intoxicating liquors, etc. *State v. Barr*, 39 Conn. 41.

We opine that the Texan court would have held both this park and platform a "saloon," as there would certainly be "room for the reception of company," and if the dancing was good, and the dresses of any Worth, these would be an exhibition of works of art.

A "cellar" may be referred to as "the above mentioned house." *Com. v. Intoxicating Liquors*, 105 Mass. 181. In England, it was held that a covenant not to use a house as a "beer house" was not broken by the sale under a license of beer by retail to be consumed off the premises. *L. & N. W. Railway v. Garnett*, L. R., 9 Ex. 26. One Schofield had a license to sell beer "not to be drunk on the premises." The bartender handed a mug of beer through an open window in Schofield's house to a thirsty soul, who paid for it, and immediately drank it, standing on the Queen's highway, but as close as possible to the window. The Court of Queen's Bench considered that this was not a case of selling beer "to be consumed on the premises." *Deal v. Schofield*, L. R., 3 Q. B. 8.

As to the "thing" itself. The phrase "spirituous liquors" does not include "fermented liquors." *State v. Adams*, 51 N. H. 568.*

Cider is not a "vinous liquor." *Feldman v. Morrison*, 1 Ill. App. 469. This seems reasonable enough in view of the decision that "vinous liquors" means liquors made from the juice of the grape. *Adler v. State*, 55 Ala. 16.

A "dram" in common parlance, in Texas, means something that has alcohol in it—something that can intoxicate; at

* But ale and strong beer are "strong and spirituous liquors." *Nevin v. Ladue*, 3 Den. 437, one of the most entertaining cases in the books.—Ed. Alb. L. J.