

said, without consulting the defendant, gave the tenant permission to occupy the stable for the purpose of keeping a rig in it. No rent was to be paid, and the defendant says that his brother, while having authority to rent, had no authority to give this permission.

Upon this it is argued that the premises had become subdivided, and that the owner is only liable for offences committed upon the demised premises, and is not liable for the offence committed upon the property not demised—the stable.

So to construe the statute as to permit the subdivision of “the premises” would not only defeat the object of the Act, but ignore its plain provisions.

What the accused owns is the hotel and all its outbuildings; these constitute the “hotel premises” with which the statute deals. He is either the occupant himself of this stable and so liable under sub-sec. (1), or is constructively the occupant by reason of having sublet part of the premises.

It may well be that, in this case, all was done by the accused in complete innocence, but it would be very dangerous to hold that a landlord could rent one room in an hotel building and escape liability for the sale of liquor in another room, to which the tenant was permitted to have gratuitous access for certain limited purposes only.

In another view the motion fails. The tenant was found in possession of the whole—the onus was upon the accused, even if his construction of the statute is correct, to shew that the stable was not included in the demise. The magistrate may not have accepted the statement that the brother had no authority to make the arrangement set up, or he may have discredited the whole story. The lease was not produced, and there is that about the case that arouses suspicion.

When, upon any view of the evidence, the conviction can be supported, I cannot quash.

The motion fails, and I can see no reason for withholding costs.

FALCONBRIDGE, C.J.K.B.

SEPTEMBER 27TH, 1911.

JOHNSTON v. OCCIDENTAL SYNDICATE LIMITED.

Foreign Judgment — Action on—Defence—Fraud—Estoppel—Amendment.

An action on a judgment recovered in the Territorial Court of the Yukon Territory.