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INNKEEPERS — STATUTORY LIMITATION OF LIABILITY — NECESSITY OF STRICT COMPLIANCE AS A CONDITION PRECEDENT TO EXEMPTION — The plaintiff was a guest at a hotel owned by the defendant, and during that period a valuable diamond ring was stolen from his room, without negligence on the part of the defendant. In a suit to recover the value of the ring, the defendant set up a defense by way of the statute[1] exempting innkeepers from liability upon "posting a notice in three or more public and conspicuous places in the office, elevators, or public rooms, or in the public parlors of such hotel" to the effect that the innkeeper would not be liable for any stolen property not placed in a safe provided by the management. The court *held* that the posting of these notices on the elevator shafts of the second, third, and fourth floors was not a strict compliance with the statute requiring them to be posted in public rooms, as an express condition to the privilege of exemption under the statute. *Featherstone v. Dessert et al.*, (Wash. 1933) 22 Pac. (2d) 1050.

At common law an innkeeper was considered an insurer of all necessary chattels which were deposited within his hotel by the traveller seeking accommodations,[2] although a few courts have held that the innkeeper was discharged upon a showing of freedom from negligence or default.[3] But in all cases the fact of

[1] "Whenever the proprietor, keeper, owner . . . of any hotel, lodging house or inn shall provide a safe or vault for the safekeeping of any money, bank notes, jewelry . . . or other valuable property of small compass belonging to the guests . . . , and shall notify the guests . . . thereof by posting a notice in three or more public and conspicuous places in the office, elevators, or public rooms, or in the public parlors of such hotel, . . . stating the fact that such safe or vault is provided in which such property may be deposited; and if such guests . . . shall neglect to deliver such property to the person in charge of such office, for deposit in the safe or vault, the proprietor, keeper, owner . . . shall not be liable for any loss or destruction of any such property. . . . " Wash. Sess. Laws, 1929, p. 587, sec. 3.

[2] GODDARD, OUTLINES OF THE LAW OF BAILMENTS AND CARRIERS, 2d ed., sec. 181 (1928); BEALE, LAW OF INNKEEPERS AND HOTELS, sec. 183 (1906); Watt v. Kilbury, 53 Wash. 446, 102 Pac. 403 (1909); O'Brien v. Vaill, 22 Fla. 627, 1 So. 137 (1886); Swanner v. Conner Hotel Co., 205 Mo. App. 329, 224 S. W. 123 (1920); Palace Hotel Co. v. Medart, 87 Ohio St. 130, 100 N. E. 317 (1912); Willette v. Rhinelander Paper Co., 145 Wis. 537, 130 N. W. 853 (1911); Grinnell v. Cook, 3 Hill (N. Y.) 485, 38 Am. Dec. 663 (1842).

[3] GODDARD, OUTLINES OF THE LAW OF BAILMENTS AND CARRIERS, 2d ed., sec. 181 (1928); Bowell v. DeWald, 2 Ind. App. 303, 28 N. E. 430 (1891); Laird v. Eichold, 10 Ind. 212, 71 Am. Dec. 323 (1858); Rockhill v. Congress Hotel Co., 237 Ill. 98, 86 N. E. 740 (1908); Hulbert v. Hartman, 79 Ill. App. 289 (1898); Treich-

loss created a prima facie case and the burden was on the innkeeper to establish exculpatory circumstances.[4] The reason for this strict rule was largely historical, due to the dangerous conditions of travel and a desire to protect the traveller, who was forced to rely upon the honesty of the innkeeper.[5] It was early recognized that the conditions giving rise to this strict rule had for the most part disappeared, and most States have passed statutes limiting the liability of the innkeeper where a safe is provided for valuables and sufficient notice of such accorded the guest.[6] Even at common law an innkeeper could impose reasonable rules and regulations as a condition to his responsibility, provided proper notice were given the traveller.[7] But upon compliance with the condition, the common law liability was again placed upon the innkeeper.[8] In contrast with this situation, a compliance with the terms of the statute limiting or exempting liability removes the strict common law responsibility of the innkeeper.[9] It is generally held that the statutory limitation will not be applied where the loss occurs through the negligence of the innkeeper, after deposit with him,[10] but a few cases indicate that this is not true where the innkeeper's neglect arose prior to the time of deposit.[11] The refusal of the courts to interpret the statute as limiting liability for negligence is in accord with the decisions in the field of common carriers, where a similar result was reached.[12] Statutes, as in the principal case, requiring

linger v. French Lick Springs Hotel Co., 196 Mo. App. 686, 192 S. W. 101 (1917). In a few States, either by statute or decision, the innkeeper is excused from liability for loss by accidental fire or inevitable accident. See BEALE, LAW OF INNKEEPERS AND HOTELS, sec. 192 (1906).

[4] BEALE, LAW OF INNKEEPERS AND HOTELS, sec. 190 (1906); Watt v. Kilbury, 53 Wash. 446, 102 Pac. 403 (1909); Palace Hotel Co. v. Medart, 87 Ohio St. 130, 100 N. E. 317 (1912); Reed v. Teneyck, 103 Ky. 65, 44 S. W. 356 (1898); Baehr v. Downey, 133 Mich. 163, 94 N. W. 750 (1903); Horton v. Terminal Hotel & Arcade Co., 114 Mo. App. 357, 89 S. W. 363 (1905); Johnson v. Chadbourn Finance Co., 89 Minn. 310, 94 N. W. 874 (1903); Metcalf v. Hess, 14 Ill. 129 (1852).

[5] Pinkerton v. Woodward, 33 Cal. 557, 91 Am. Dec. 657 (1867); Beale v. Posey, 72 Ala. 323 (1882); Crapo v. Rockwell et al., 48 Misc. 1, 94 N. Y. S. 1122 (1905).

[6] See BEALE, LAW OF INNKEEPERS AND HOTELS 114 (1906); 16 Am. & Eng. Encyc. of Law, 2d ed., 541 (1900); 51 L. R. A. (N. S.) 1168 n. (1914).

[7] Wilson v. Halpin, 1 Daly (N. Y.) 496, 30 How. Pr. (N. Y.) 124 (1865); Nesben v. Jackson, 89 W. Va. 470, 109 S. E. 489 (1921); Van Wyck v. Howard, 12 How. Pr. (N. Y.) 147 (1856); Murchison v. Sergent, 69 Ga. 206 (1882).

[8] Pinkerton v. Woodward, 33 Cal. 557 (1867); Maxwell Operating Co. v. Harper, 138 Tenn. 640, 200 S. W. 515 (1917).

[9] Lanier v. Youngblood, 73 Ala. 587 (1883); Becker v. Haynes, (C. C. Mass. 1887) 29 Fed. 441; Noble v. Milliken, 74 Me. 225, 43 Am. Rep. 581 (1882); Kellin v. Swart, 143 Mich. 228, 106 N. W. 710 (1906).

[10] Lanier v. Youngblood, 73 Ala. 587 (1883); New Albany Hotel Co. v. Dingman, 66 Colo. 306, 181 Pac. 126 (1919); Rockhill v. Congress Hotel Co., 237 Ill. 98, 86 N. E. 740 (1908); Treiber v. Burrows, 27 Md. 130 (1867); Horton v. Terminal Hotel & Arcade Co., 114 Mo. App. 357, 89 S. W. 363 (1905); Wishert v. A. R. Blakely & Co., 5 La. A. (Orleans) 59 (1907).

[11] Jones v. Savannah Hotel Co., 141 Ga. 530, 81 S. E. 874 (1914).

[12] See cases cited in Railroad Co. v. Lockwood, 17 Wall. (84 U. S.) 357 (1873) and Hart v. Pennsylvania Ry., 112 U. S. 331, 5 Sup. Ct. 151 (1884).

goods to be deposited and notice to be given are construed strictly as in derogation of the common law.[13] Likewise, the innkeeper must show a strict compliance with the express terms of the statute as a condition precedent to the exemption from liability.[14] Thus, where a statute requires a notice to be posted in particular places, actual notice is not sufficient,[15] nor is a posting in a different place than that required by the statute.[16] The principal case is an interesting example of the tendency on the part of the courts to require the innkeeper to follow the terms of the statute without the slightest deviation. It is submitted that in holding an elevator lobby not to be a public room, the court has extended the requirement from a strict compliance with the statute to that of a technical compliance. Statutes should be interpreted in the light of legislative purpose and meaning and not in a technical or architectural sense, unless a sufficient reason is apparent. It would seem that this is especially true where the reason for a strict liability has largely disappeared and the purpose of the statute is substantially accomplished by the compliance in question.

R. M. C.

[13] Weadock v. Swart, 163 Mich. 602, 128 N. W. 734 (1910); Ramaley v. Leland, 43 N. Y. 539 (1871); Shaine v. Jacobson, Inc., 121 Misc. 590, 201 N. Y. S. 781 (1923); State ex rel. Morris v. Sullivan, 81 Ohio St. 79, 90 N. E. 146 (1909).

[14] Gillett v. Waldorf Hotel Co., 136 Wash. 615, 241 Pac. 14 (1926); Watt v. Kilbury, 53 Wash. 446, 102 Pac. 403 (1909); Batterson v. Vogel, 8 Mo. App. 24 (1879); Olson v. Crossman, 31 Minn. 222, 17 N. W. 375 (1883); Davidson v. Madison Corporation, 231 App. Div. 421, 247 N. Y. S. 789 (1931).

[15] Batterson v. Vogel, 8 Mo. App. 24 (1879); Lanier v. Youngblood, 73 Ala. 587 (1883); Porter v. Gilkey, 57 Mo. 235 (1874). *Contra*, Purvis v. Coleman, 21 N. Y. 111 (1860).

[16] Murchison v. Sergent, 69 Ga. 206 (1882); Watt v. Kilbury, 53 Wash. 446, 102 Pac. 403 (1909); Beale v. Posey, 72 Ala. 323 (1882); Nesben v. Jackson, 89 W. Va. 470, 109 S. E. 489 (1921); Olson v. Crossman, 31 Minn. 222, 17 N. W. 375 (1883).