assumption, in my opinion, completely justified by the previous case of *Hope* v. *Warburton*. In the report in the *Solicitors' Journal* it is stated that in addition to the offence of permitting drunkenness to take place on the premises the licensee was also charged with having permitted a drunken man to remain on his premises. But there is no such offence under the English Acts as distinguished from the offence of permitting drunkenness to take place on the premises, and the comment on *Worth* v. *Brown* shows that the case was brought under section 13 of the English Licensing Act for permitting drunkenness to take place. The law as stated in *Paterson's Licensing Acts* is as follows: "Where a drunken person "is found on licensed premises, and is known to be so by "the licence-holder, the latter is liable, though no drink "may have been supplied by such licence-holder." For this *Hope* v. *Warburton* is cited. *Worth* v. *Brown* shows that the knowledge of a person in charge in the absence of the licensee is the knowledge of the licensee.

I think the case of *Faber* v. *Dwyer*, decided by Edwards, J., if it means that in order to convict a licensee under this section it must appear either that he became drunk on the premises, or that, coming on to the premises drunk, he, to the knowledge of the licensee, consumed more liquor there, is directly contrary to the English cases. *Worth* v. *Brown* does not appear to have been referred to, and the statement in the judgment that in *Hope* v. *Warburton* the drunken person was allowed—that is, allowed by the landlord or his representative—to consume more drink on the premises is not a necessary inference from the facts of that case, nor was it the inference drawn by the Court, which directed a conviction. Drunkenness is a physical state or condition. Drunkenness takes place when the state of drunkenness exists. To permit a man in a state of drunkenness to remain on premises when he can reasonably be ejected from them is to permit drunkenness to take place on those premises. A drunken man on the premises is equally a nuisance to decent people who frequent a publichouse whether he has or has not beens upplied with liquor there, and it is the licensee's duty, if he can, to abate the nuisance. I think, therefore, that for a licensed person to allow a drunken person to remain on the premises when he need not allow him to remain is to permit drunkenness to take place on the premises within the meaning of the statute. The case of a lodger coming home drunk is on a different footing. He has a right by contract to be on the premises. If he goes to bed he goes to his proper place. So, also, if a drunken man comes in seeking shelter from inclement weather, and it would be inhuman to turn him out of doors, the landlord might well be excused for keeping him on the premises. It will be time enough to decide these questions when they arise. But where the landlord has no duty, contractual or moral, to allow a drunken man to remain on his premises, and does allow him to remain, I am satisfied upon the authorities that he is guilty of the offence of allowing drunkenness to take place on the premises.

In the present case the licensee was absent from the premises, but the barmaid had a general authority from the defendant, and one John Pasco a limited authority to serve liquor and control the bar on behalf of the defendant, and Pasco at the request of the defendant assumed this limited authority. A man, Carr, came into the bar drunk about 9 o'clock in the evening. The persons in charge refused to supply him with drink, and he used filthy language. Notwithstanding the use of such language no attempt was made to eject Carr, the barmaid alone interfering, and her interference was confined to ordering Carr to leave the premises or she would have him ejected on the return of the defendant, who was absent, and who remained absent until after 10 o'clock. Carr was found drunk on the premises by the police about twenty minutes past 9. If the defendant had been present it would have been his duty not to have allowed Carr to remain on the premises, but to have put him out, and if he failed in this duty he would have been properly convicted. In his absence this duty devolved upon the barmaid, who, as in *Worth* v. *Brown*, was the defendant's *alter ego* for this purpose. The question is whether there was evidence before the Magistrate from which he could conclude that she had failed in this duty. I think there was. She certainly told Carr to leave, but did nothing more, although he did not leave. Obviously, if it was her duty to have put him out, and there were reasonable means at hand for putting him out, merely telling him to leave is not a performance of that duty. But Pasco was there, and Wilkinson, the defendant's father-in-law, who assisted generally in the hotel, was also there. Further, by section 153 of the Act of 1881 all constables are required to assist in expelling drunken people. I think, therefore, that there was evidence from which the Magistrate could properly conclude that the barmaid could have had Carr put out, but failed to have him put out, and allowed him to remain on the premises, and that the conviction must be affirmed.

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