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## Constitutional Law—Intoxicating Liquors

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*Ry. Co. v. Turnipseed* (1910), 219 U. S. 35. Nor is a statute which makes the possession of a record of chances in a policy game prima facie evidence of possession thereof knowingly. *Adams v. New York* (1904), 192 U. S. 585. See to the same effect *Yee Hem v. United States* (1925), 268 U. S. 179; *Cockrill v. California, supra*.

On the other hand, a statute was held unconstitutional which made a refusal without cause to perform labor contracted for prima facie evidence of an intent to defraud, the employee having received money which was not refunded, where testimony by the accused employee in regard to uncommunicated motives was inadmissible. *Bailey v. Alabama, supra*. See also *McFarland American Sugar Refining Co., supra*. On the general question see notes in 2 L. R. A. (N. S.) 1007; 32 L. R. A. (N. S.) 226; and Ann. Cas. 1912 A. 465. Since the legislature may create a presumption where it did not exist before, it follows that the legislature may by repealing the statute destroy the presumption. *Virginia and West Virginia Coal Co. v. Charles* (1918), 254 F. 379.

In the principal case, the court ruled that there was not sufficient connection between the facts proved and that presumed. "Reasoning does not lead from one to the other." The presumption of fraud was raised upon proof of insolvency without regard to the facts from which the condition of insolvency resulted; and the statutory method of rebutting the presumption, i. e., showing that the affairs of the bank had been "fairly and legally administered" was considered to be too vague and indefinite. It would seem that the decision is correct both on principle and authority.

J. N., '29.

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CONSTITUTIONAL LAW—INTOXICATING LIQUORS.—Louisiana Statute permitting householders to make and have intoxicating liquor for home use held constitutional. *State v. Schweitzer* (1928), 167 La. 81, 118 S. 699.

The case concerns itself chiefly with the equal protection clause of the Federal Constitution, and the court holds that a denial of permission to make and have intoxicating liquors to other than householders is not a denial of equal protection.

The interesting point, however, is that the statute permits the making and having of intoxicating liquors at all; its constitutionality with reference to the Eighteenth Amendment is not questioned, but is taken for granted. It is well-settled that the Eighteenth Amendment did not take away the states' regulatory power over liquor, nor did it supersede state statutes on the subject, unless they were contrary to the amendment. *Powell v. State* (1921), 18 Ala. A. 101, 90 S. 138; *Kappitz v. U. S.* (1921), 272 F. 96; *State v. George* (Mo. A., 1922), 243 S. W. 948, and cases cited therein. Since the amendment limits its prohibition to the "manufacture, sale, or transportation of intoxicating liquors," it has been held in one case that a state may not prohibit the possession of liquor lawfully obtained. *Spomer v. Curtis* (1923), 85 Fla. 408, 96 S. 836. However, the general judicial opinion is that the states may prohibit the possession of intoxicating liquors.

*Ewing v. State* (1921), 18 Ala. A. 166, 90 S. 136; *Edwards v. State* (1920), 150 Ga. 754, 105 S. E. 363; *State v. Campbell* (1921), 182 N. C. 911, 110 S. E. 86.

The language of the amendment prohibits manufacture. This Louisiana statute permits manufacture for home use, i. e., "home-brew." It is an interesting question whether the amendment may be construed so as to permit the manufacture of "home-brew." In all cases where the state has enacted a prohibiting law (except Louisiana) there is no exception in favor of "home-brew." It seems to the writer to be extremely doubtful whether the general prohibition of the amendment is not being violated by the Louisiana statute permitting the manufacture of "home-brew by households." The fact that there are few or no prosecutions for making "home-brew" is no indication of the legality of such manufacture; it is a matter of sufferance, tacit permission, but it implies no legality. M. E. C., '29.

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CORPORATION—SERVICE OF PROCESS—SERVICE OF PARENT COMPANY THROUGH SUBSIDIARY.—A suit was brought for patent infringement, an attempt being made to hold the General Motors Corporation liable for the acts of its subsidiary corporations. The action was brought in Ohio, although the General Motors Corporation is a Delaware corporation which does no business in Ohio in its own name. However, the latter company owned the capital stock of the subsidiary corporations which did business in Ohio; and the advertising and annual reports of the General Motors Corporation treated the subsidiary companies as mere divisions and adjuncts of the parent company. It was alleged that the holding company controlled and directed the policies and business of the subsidiary companies. Service was had on the managers of the subsidiary companies in Ohio in behalf of the General Motors Corporation. On a motion to quash service, *held*, that valid service had been made on an agent engaged in conducting the business of the General Motors Corporation. *Industrial Research Corporation v. General Motors Corporation* (1928), 29 F. (2d) 623.

A foreign corporation must be engaged in business within a state in order to be validly served with process. *Riverside Mills v. Menefee* (1915), 237 U. S. 189. The mere fact that it operates through a subsidiary does not necessarily subject the parent corporation to the jurisdiction of the state. *Proctor and Gamble v. Newton* (1923), 289 F. 1013; *Cannon Mfg. Co. v. Cudahy Packing Co.* (1925), 267 U. S. 333. The problem involved where the presence of the subsidiary corporation in the state is asserted as a basis of jurisdiction over the dominant corporation is entirely different from that involved where one seeks to hold the parent corporation liable for the debts, contracts or torts of the subsidiary. Ballantine, Parent and Subsidiary Corporations, 14 CAL. L. REV. 12. Thus, where a foreign corporation marketed its products through a subsidiary which it completely dominated through stock ownership and otherwise, but which maintained a distinct corporate entity, and which did not act as the agent of the parent but instead bought the goods from the parent and sold them