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## Landlord and Tenant—Liability of Tenant for Years for Material Alterations in the Leased Premises

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As to the meaning of the word "transportation," the court has adopted the common, everyday meaning as set forth in various dictionaries and as quoted above; such a meaning is the only logical one to assume under the circumstances, since it does not violate the clearly expressed intention of the legislature in such statutes. Upon consideration of the territory involved, i. e. the areas within, or without, or into which, transportation is illegal, one meets with a solid line of unopposed authority. The conveyance may be from one place to another in the same city or town, *State v. Campbell*, 76 Ia., 122, 40 N. W., 100; or county, *State v. Arnold*, 80 S. C., 383, 61 S. E., 891; or from one point on a public highway to another thereon, *Thacker v. Commonwealth*, 131 Va., 707, 108 S. E., 559; or along a navigable watercourse as a highway, *Papenburg v. State*, 10 Ala. App., 224, 65 S., 418; or from a train to a depot platform, *Liquor Transportation Cases*, 140 Tenn., 582, 205 S. W., 423. It is held that the conveyance must be from beyond the premises of accused in *Sherman v. State*, Okla. App. 228 P. 1110; that it need not be from one person to another, but merely from place to place, *Asher v. State*, 194 Ind., 553, 142 N. E., 407. One case holds that a carrying from one part of a farm to another part, the whole farm being in the accused's possession, is in violation of the law; but this holding was justified on the ground that the liquor in that case was made at an illicit still on the farm, while in the instant case the whisky was found in a shed, *Scaggs v. Commonwealth*, 196 Ken., 399, 244 S. W., 799. While in this country it is held that the transportation need not be from a place outside the state to a place in the state, *McLaughlin v. State*, 104 Neb., 392, 177 N. W., 744, in Canada, transportation within a province was not prohibited, 30 *Can. Cr. Cas.*, 413. As to the question of distance conveyed, the courts seem to hold that this is an immaterial matter as long as the specifications as to territory are complied with, *Berry v. State*, 196 Ind., 258, 148 N. E., 143, and *Shirley v. State*, Okl., App., 237 P. 627. As to mode or manner of conveyance, the decisions are fairly uniform. The transportation may embrace movement of the liquor in some vehicle under the accused's control, *West v. State*, 93 Tex. Crim., 370, 248 S. W., 371 or movement of liquor by accused on his person, *State v. Pope*, 79 S. C., 87, 60 S. E. 234, *Burns v. State*, 99 Tex. Crim., 252, 268 S. W., 950. Missouri, however, is at variance on this point holding that movement on the person is not transportation, *State v. Jones*, (Mo.) 256 S. W., 542, and a statute was enacted by the legislature covering this point, Laws 1923, p. 242. Sec. 19, amending Sec. 6588, Mo. Rev. Stat. 1919. A taxicab driver who knowingly carries it is guilty of transporting, though he didn't own the liquor, *People v. Ninehouse*, 227 Mich., 480, 198 N. W., 973. The liquor may be in a carriage or aboard a vessel entering American waters, *Cunard S. S. Co. v. Mellon*, 262 U. S., 100; or in a truck which accused is leading in his own car, *Sheffield v. State*, 99 Tex. Crim., 95, 268 S. W., 162, or in any sort of vehicle. It can not, however, be in defendant's stomach, *Rush v. Commonwealth*, 206 Ky., 206, 266 S. W., 1046. The fact of ownership of vehicle used is immaterial, *Melcher v. State*, 109 Neb., 865, 192 N. W., 502; also, the fact that there was no definite destination, *Thacker v. Commonwealth*, 131 Va., 707, 108 S. E., 559, and that the journey of transporting was incomplete, *Black v. State*, 96 Tex. Crim., 56, 255 S. W., 731.

Thus it would seem that the Indiana decision is in line with the general trend of judicial opinion, there being cases in practically every state which support its doctrine, either in some essential feature or in its entirety. E. L. W. '28.

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**LANDLORD AND TENANT—LIABILITY OF A TENANT FOR YEARS FOR MATERIAL ALTERATIONS IN THE LEASED PREMISES.**—The lease in question was for a period of five years and under its terms the defendant was to make "no unlawful, improper, or offensive use of the premises, and to quit and deliver up the said premises at the end of said term in as good condition as they are now (ordinary

wear and decay and damages by the elements only excepted.)" The defendant immediately took possession and began remodeling the interior and exterior of the building. It did not appear from the record whether the alterations were beneficial or prejudicial "to the inheritance." The bill was for an injunction to prevent further alterations and the defendant appealed from a temporary restraining order. *Held*, that it was waste even if the alterations were a benefit, and the restraining order was *affirmed*. *Stephenson v. National Bank of Winterhaven*, et al, (Fla., 1926), 109 So., 424.

The rule of the common law, and in a majority of the jurisdictions in the United States, is that any material alterations of the buildings on leased premises by a tenant for years, without the consent of the landlord, is waste regardless of whether the alterations are beneficial to the owner of the reversion. *London v. Greyme*, (1607) Cro. Jac., 181, 79 Eng. Reprint, 158; *United States v. Bostwick*, (1876) 94 U. S., 53, 24 L. Ed., 65; *Maddox v. White*, (1853) 4 Md., 72, 59 Am. Dec., 67; *Woolworth Co. v. Nelson*, (1920) 204 Ala., 172, 85 So., 449, 13 A. L. R., 820. The reasons assigned for this rule are: (1) that the evidence of title is affected by diminution of the means of identifying the premises, *Cole v. Green*, (1672) 1 Lev., 309, 83 Eng. Reprint, 422; *Brock v. Dole*, (1886) 66 Wis., 142, 28 N. W., 334; and (2) that by a lease the lessee is given only a right of user in the building and the landlord is entitled to receive back, at the end of the term, the very thing which he has leased, *Agate v. Lowenbeim*, (1874) 57 N. Y., 604; *Hamburger and Dreyling v. Settegast*, (1910) 62 Tex. Civ. App., 446, 131 S. W., 639. The former reason seems to have been properly discredited in view of the fact that in modern conveyancing property is described by metes and bounds, or courses and distances, or with reference to a plat or survey. *Pynchon v. Stearns*, (1846) 11 Metc., 304, 45 Am. Dec., 207; see also the opinion of Lord Blackburn in *Doherty v. Allman*, (1878) 3 App. Cas., 709. Though the doctrine of the principal case is in support of a rule of long standing the modern trend of authorities seems to require that, in order to entitle the landlord to injunctive relief or compensation for waste, it must be shown that the alterations were of a prejudicial nature or that it will be impossible to restore the premises at the end of the term substantially as the tenant received them. In *Fred v. Moseley*, (1912) (Tex. Civ. App.), 146 S. W., 343, a case very similar on its facts to the principal case, the court refused to issue an injunction against a tenant for years who contemplated changing the leased store building into a moving picture theater. *Doherty v. Allman*, (1878) 3 App. Cas., 709 was a case in which the House of Lords and the Privy Council refused to grant an injunction to restrain a tenant for years from converting store buildings into dwelling houses, on the ground that the neighborhood had changed so as to do away with any demand for store buildings. But in that case the lease was for a period of 999 years and the length of the term was a governing factor.

T. S. '27.

MASTER AND SERVANT—WORKMEN'S COMPENSATION ACT\*.—Claimant newspaper boy was struck and injured by an automobile after he had completed his delivery route, and was riding his bicycle on his way home, but was still within the bounds of his district. He was not unnecessarily loitering, nor was negligence imputed to him, and the question is whether his status at the time of the injury and the place of the accident were such that he might come within the provisions of the act allowing compensation to employes for injuries "in courses of employment." *Held*, that claimant was injured on his master's premises "in course of employment," since he was within the area prescribed as his working district; that injury was not inflicted outside district because he was riding on opposite side of bounding street, in accordance with traffic laws. *Makins v. Industrial Accident Commission*, (Cal.) 247 Pac., 202.

This brings us to the consideration of what constitutes "in course of em-