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F. Earl Lamboley

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CURIOSITIES OF THE LAW

NEW YORK COURT OF APPEALS RULES WHEN "HOTEL" IS NOT HOTEL

In the case of *Dixon v. Robbins*, the New York Court of Appeals held, in a recent case, that a building is not a hotel merely because it holds itself out as such. In that case a guest sued for damages for injuries sustained while attempting to escape from a burning structure which had no fire escape.

The highest court of New York held that the building was a lodging house and not a hotel within the statute requiring fire escapes, and that therefore the proprietor was not liable.

This decision of the upper court reversed the Appellate Division of the Fourth Department and the trial court, in submitting to a jury a question of fact as to whether the building was a hotel.

The building in question bore a sign: "New Alpine—Rooms by the Day, Week or Night." The building contained about thirty five rooms, some of which were rented for light house-keeping and others leased to transients. It had no register, no office, no public room, no call bells and served no meals.

Judge Lehman, in the opinion for the Court of Appeals, holds that in this country the term "hotel" has largely superseded the term "inn," and that "all recognized lexicographers indicate that the words may be regarded as synonymous." One of the earliest decisions in New York defines a hotel as "an inn or house for entertaining strangers or travelers," while an inn "is a house for the lodging and entertainment of travelers."

In holding that a building in which a traveler may sleep but gets no "entertainment" is not a hotel but merely a lodging house, Judge Lehman says: "The question here is whether the Legislature intended to include in the term 'hotel' a building maintained as a lodging house where rooms are rented to transients or more permanent guests only after price is agreed upon, where no food is furnished, no public rooms are maintained and no other entertainment or service is provided as a hotel, nor

seeks the patronage of transients except by the sign on its front, 'New Alpine. Rooms rented by day, week or night.'

"It may be that a building is a 'hotel' within the meaning of the statute, though a person cannot receive there all the 'entertainment' he might have obtained in other times at an 'inn.' We may not look solely to old definitions when we determine the meaning of a word which must be applied under changed conditions. Even under new conditions the term 'hotel' is not applicable to a building, maintained as the evidence shows the defendant's building was maintained, with few, if any, of those characteristics which mark a 'hotel' or 'inn' as understood and defined both in legal decisions and common speech. The statute construed according to its letter and spirit does not apply to such a building."

According to this decision of the New York Court of Appeals a building quite properly is not a hotel merely because it holds itself out as such.

—*F. Earl Lamboley.*