

tion of the statute should depend upon whether any liquor or beverage, the sale of which was there prohibited, was in fact intoxicating." *State v. York*, 74 N. H. 125, 127.

After this decision was announced, the legislature reenacted the section in question with changes which only tend to fortify the conclusions arrived at. Laws 1911, c. 193, s. 1. The interpretation of the statute has thus become fixed beyond the power of change except by the legislature. The sale of fermented liquor is prohibited, and as the defendant admitted he made such sale, his guilt was established and the ruling excepted to was correct.

It is urged by the defendant that if this is the correct interpretation of the statute, the provision is unconstitutional because it is not a reasonable exercise of the police power. It is a matter of common knowledge that places of resort, where ostensibly only "soft drinks" are sold, are employed as screens behind which illegal sales of intoxicants may be carried on with impunity. It was for the legislature to say whether it was advisable to prohibit a transaction harmless in itself because of its adaptability to the promotion of unlawful acts. That the prohibited act is so adaptable will not be seriously questioned by anyone familiar with the difficulties involved in the enforcement of the statutes forbidding the sale of intoxicants. The reasons why the court cannot declare this statute to be unconstitutional are fully set forth in *Carter v. Craig*, 77 N. H. 200.

Exception overruled.

All concurred.

Rockingham, }
June 6, 1916. }

EDWIN G. EASTMAN, *Trustee*, v. ELLA M. BARKER & a.

A decree of distribution, rendered after a hearing at which all parties interested, or that might be interested, were represented and as to which no exception was taken, is conclusive, and no questions as to its validity can be raised in the supreme court.

BILL IN EQUITY, praying for advice as to the termination and distribution of the trust estate created by the will of Hiram Barker, and for a decree of distribution. Various questions arising under this trust have been considered by the court in the following cases:

Edgerly v. Barker, 66 N. H. 434; *Edgerly v. Barker*, 67 N. H. 443; *Brown v. Berry*, 71 N. H. 241; *Barker v. Barker*, 73 N. H. 353; *Barker v. Eastman*, 76 N. H. 277.

A decree of distribution was made by the superior court and the case was transferred, on the request of the plaintiff, from the January term, 1916, by *Kivel, J.*, for the consideration and advice of this court as to the validity of the decree.

Eastman, Scammon & Gardner, for the plaintiff.

Leslie P. Snow (by brief and orally), for the defendants.

PLUMMER, J. After a hearing of this case at which all the parties interested in the trust estate, or that might by any possibility be interested, were represented, the court made a decree of distribution to which no exception was taken.

A decree or judgment rendered in an action is conclusive as to all matters that were directly in issue. *King v. Chase*, 15 N. H. 9; *Chamberlain v. Carlisle*, 26 N. H. 540; *Smith v. Smith*, 50 N. H. 212; *Sanderson v. Peabody*, 58 N. H. 116; *Hearn v. Railroad*, 67 N. H. 320. And a judgment "concludes the parties, not only as to every matter which was offered and received to sustain or to defeat the suit, but also as to any other matter which might have been offered for that purpose." *Metcalf v. Gilmore*, 63 N. H. 174, 189; *Morgan v. Burr*, 58 N. H. 470; *MacDonald v. Railway*, 71 N. H. 448, 457; *Chesley v. Dunklee*, 77 N. H. 263, 267.

All parties interested, or that might be interested, having been represented at the hearing of this case, and a decree having been made, to which no exception was taken, that decree is conclusive, and no question as to its validity can be raised.

The case was transferred by the trial court at the request of the plaintiff. But a brief has been submitted by him in support and approval of the decree. Under these circumstances a further consideration of the case by this court is not demanded.

Case discharged.

All concurred.