

## THE LIABILITY OF INNKEEPERS.

consider briefly the law relating to the liability of innkeepers. That term, in truth, is one known only to the law, for inns and innkeepers, on this side the Atlantic at least, do not exist. The modern hotel, with its comfortless splendour, has taken the place of the old-fashioned, home-like inn; and "mine host of the Garter" has given way to the "gentlemanly proprietor," who deputes the duties of hospitality to an equally gentlemanlike and courteous clerk.

"Call'st thou me Host ?

Now, by this hand, I swear I scorn the term."

The chambermaid with cherry-coloured ribbons and complexion to match, has been deposed for a sable African, who does nothing for love, and very little for money. All things are changed since the days when Calye's case was decided. The law has changed least of all, but even its rigour has been abated in favour of the gentlemanly proprietor.

In 26 Elizabeth it was resolved *per totam curiam* (of King's Bench) that an innkeeper is bound by law to keep the goods and chattels of his guests without any stealing or purloining: and it is no excuse for the innkeeper to say that he delivered the guest the key of the chamber in which he is lodged, and that he left the chamber-door open; but he ought to keep the goods and chattels of his guests there in safety. And although the guest doth not deliver his goods to the innholder to keep nor acquaint him with them, yet if they be carried away or stolen, the innkeeper shall be charged; and though they who stole or carried away the goods be unknown, yet the innkeeper shall be charged. The innkeeper may, however, protect himself by requesting the guest to place his goods in a special chamber, where he will warrant their safety, which, if the guest neglect to do, the loss shall be his own: *Calye's case*, 8 Coke 32. Thus it will be seen that in those days the law was severe enough to the innkeeper, deeming

it the only way to make the lives and property of travellers tolerably safe. The law, as laid down in Calye's case, is still the law in cases not coming within the Act which is hereafter mentioned. It holds the innkeeper liable for the default of himself and his servants, and the result of that and the later cases may be summed up by saying that where no default is shown in the guest, and where the loss has not occurred through the act of God or the Queen's enemies, default will be implied in the innkeeper.

There must be no default in the guest who would recover against the innkeeper, and the question now arises what conduct in the guest will amount to default. In other words, what acts of the guest will be considered as contributory negligence which will relieve the innkeeper from the suspicion of neglect? This is a matter which travellers will do well to make themselves familiar with.

In *Burgess v. Clements*, 4 M. & S. 306, goods belonging to a factor were lost out of a private room in the inn, chosen by the factor for the purpose of exhibiting them to his customers for sale, the use of which was granted to him by the innkeeper, who at the same time told him that there was a key, and that he might lock the door. This the guest neglected to do, although on two occasions, while he was occupied in showing his goods to a customer, a stranger had put his head into the room. It was held that the guest, by his own conduct, had discharged the innkeeper, partly on the ground that the innkeeper was not bound to extend the same protection to goods placed in a room used on the request of the guest for the purposes of trade, as in an ordinary chamber, and further, on the ground that circumstances of suspicion had arisen which should have put the guest upon his guard. "After the circumstances relating to the stranger took place, which might well have awakened the plaintiff's suspi-