

should be treated as capital or income. Kekewich, J., held that 't was income, being a restitution to profits of what had been previously taken from profits. It seems to have been conceded also that the earnings of the company during liquidation must be treated as capital and not as income, but the learned judge passed no opinion on that point, although it appears to be stated in the headnote as though it were a point adjudicated.

The Law Reports for November comprise (1895) 2 Q.B., pp. 497-538; (1895) P., pp. 301-340; (1895) 2 Ch., pp. 601-773; and (1895) A.C., pp. 541-665.

INNKEEPER—LIEN—COMMERCIAL TRAVELLER—GOODS OF THIRD PERSON BROUGHT TO INN BY GUEST.

In *Robins v. Gray*, (1895) 2 Q.B. 501; 14 R. Nov. 181, the Court of Appeal (Lord Esher, M.R., and Kay and Smith, L.JJ.) have affirmed the judgment of Wills, J. (1895) 2 Q.B. 78 (noted *ante*, p. 473). Lord Esher lays it down that the duties, liabilities, and rights of innkeepers with respect to goods brought to inns by guests are founded, not upon bailment, or pledge, or contract, but upon the custom of the realm with regard to innkeepers. By the law of the land an innkeeper is bound to receive a traveller and his luggage, and he cannot discriminate and say he will receive the traveller but not his luggage; though the learned judge admits that if the latter were in the shape of a tiger or a package of dynamite he might properly object. He is not bound to inquire as to the property of the goods. In this case it may be remembered that the goods on which the lien was claimed were known by the innkeeper to be the property of the employers of a commercial traveller, to whom they had been sent while a guest at the inn, and were received by the innkeeper as part of the baggage of the traveller. The judgment in favour of the lien was affirmed.

SALE OF GOODS BY HIRER—POSSESSION WITH OPTION TO BUY—HIRE AND PURCHASE AGREEMENT.

In *Payne v. Wilson*, (1895) 2 Q.B. 537, the plaintiff appealed from the decision of Pollock, B., and Grantham, J. (noted *ante*, p. 296), and the defendant submitted that after the decision of the House of Lords in *Helby v. Matthews*, (1895) A.C. 471 (noted *ante*, p. 566) it was impossible successfully to oppose the appeal.