

REFUSING TO RECEIVE GUESTS AT A HOTEL.

either to receive a traveller as a guest into his house, or to find him victuals and lodging, upon his tendering him a reasonable price for the same, he is not only liable to render damages for the injury in an action on the case at the suit of the party grieved, but also may be indicted and fined at the suit of the king." *Bac. Abr., Inns and Innkeepers.*

In *White's case*, Dyer, 158 "It was argued *per curiam*, that if a guest come to a common innkeeper to harbor there, and he say that his house is full of guests, and do not admit him, etc., and the party say he will shift among the other guests, and he there be robbed of his goods, the innkeeper shall not be charged because he refused the guest. And if the cause of the refusal be false, the guest may have his action on the case for his refusal." And Lord Kenyon, in *Kirkman v. Shawcross*, 6 T. R. 17, says, *arguendo*: "Innkeepers are bound by law to receive guests who come to their inns; and are also bound to protect the property of those guests. They have no option, either to receive or reject guests, and as they cannot refuse to receive guests, so neither can they impose unreasonable terms upon them." See, also, *Bennett v. Mellor*, 5 T. R. 274; *Thompson v. Lacy*, 3 B. & Ald. 285; *Newton v. Trigg*, 1 Sower 270; *Hawthorne v. Hammond*, 1 C. & K. 404.

But the guest is not entitled to be received and entertained unless he tender the innkeeper a fair remuneration for his accommodation; for the latter is not obliged to give credit. Bro., *Action Sur Case*, 76; Bro., *Contracts*, 43; 9 Co. 87, b. When, however, a guest is rejected, the fact that he had not tendered the price of his entertainment is no defence to an action against the keeper where the rejection was not on that ground; nor is it a defence that the guest was travelling on a Sunday and at an hour of the night after the keeper's family had gone to bed, nor that the guest refused to tell his name and abode, as the innkeeper has no right to insist upon knowing those particulars: but if the guest come to the inn drunk, or behaves in an indecent or improper manner, the innkeeper is not bound to receive him: *Rez v. Ivens*, 7 C. & P. 213. In this case Coleridge, J., said: "The innkeeper is not to select his guests. He has no right to say to one, you shall come into my inn, and to another you shall not, as every one coming and conducting himself in a proper manner has a right to be received." See, also, *Howell v. Jackson*, 6 C. & P. 723. While travellers are entitled to proper accommodations they have no right to select a particular apartment nor to use it for purposes other than those for which it was designed: *Fell v. Knight*, 8 M. & W. 269.

So far there appears to be nothing in the cases indicating a right in a publican to exclude persons on any ground save disorderly conduct and, undoubtedly, drunkenness. But some of the American cases go farther and intimate a right to exclude persons of bad habits

or character. In *Jencks v. Coleman*, 2 Sumn. 221, which was an action for refusing to take plaintiff on board defendant's steamboat, the ground of the refusal was that plaintiff was agent of a rival line, and had been in the habit of going aboard defendant's steamboat to solicit passengers for his line. Story, J., charged the jury that the defendant had the right to refuse to admit on board persons "who refused to obey the reasonable regulations of the boat, or who are guilty of gross and vulgar habits of conduct, or who make disturbances on board, or whose characters are doubtful, or dissolute, or suspicious; and *a fortiori* whose characters are unequivocally bad."

The analogy between the rights and duties of common carriers and innkeepers is very close, so that this decision of Judge Story has a strong bearing on the rights of innkeepers to refuse guests. But in *Markham v. Brown*, 8 N. H. 523, we have some remarks directly in point: Parker, J., after speaking of the duty of an innkeeper to receive guests, said: "But he is not obliged to make his house a common receptacle for all comers, whatever may be their character or condition. * * * He is indictable if he usually harbor thieves, and he is answerable for the safe-keeping of the goods of his guests, and he is not bound to admit one whose notorious character as a thief furnishes good reasons to suppose that he will purloin the goods of his guests or his own. * * * So he may prohibit the entry of one whose misconduct in other particulars, or whose filthy condition would subject his guests to annoyance." See *Pinkerton v. Woodward*, 33 Cal. 557.

We have been able to discover no other American cases having a bearing on the subject, and even the two cases above quoted did not involve the question, and the remarks were obiter. But we have little doubt that the courts would sustain an exception to the general rule, sufficiently broad to permit hotel keepers to exclude persons of undoubtedly disreputable character.—*Albany Law Journal*.

At a Livingston justice's court a somewhat too willing witness was placed upon his *voir dire* by a suspicious attorney, and inquired of touching his interest in the event of the suit. The witness was too ready to acquit himself of the charge, and replied in the negative with great alacrity. The lawyer pressed his interrogatories closer home, thus: "Witness, do you pretend to say, under your oath, that you have no interest in the event of this suit?" "Not the first red," was the prompt reply. "Do you mean to be understood that you would as soon see one party beat as the other?" "Yes, your honor," was the answer, "and if anything a little rather." The last answer did the business.—*Pittsburgh Legal Journal*.