

LIABILITY OF HOTEL KEEPERS.

The question whether a person is a guest or boarder at a hotel, and the resulting question of liability of the landlord for property stolen from rooms in the hotel, recently came before the N. Y. Supreme Court. The facts were as follows: In November 1873, General Hancock applied to the proprietors of the St. Cloud Hotel in New York city, for rooms for himself and family, with meals to be served either at the restaurant or in their rooms. A price per month was agreed upon, and the arrangement was to continue until the next summer, unless the General should be ordered away on military duty. In March 1874, in the absence of the family one evening, the rooms were entered by a thief and valuables to the amount of about \$4000 stolen. Suit was brought against the proprietors of the hotel, resulting in favor of the plaintiff. In rendering judgment the court uses the following language:

"We cannot adopt the theory that ascertaining and fixing the price that was to be paid for the accommodation, and specifying the probable duration of the stay at the hotel, necessarily had the effect to deprive the plaintiff of the character of guest. The effect of such a theory reduced to practice would be to deprive the visitor at a hotel of the character of guest if he took the precaution to ascertain in advance the price which would be charged for his entertainment. Although the decisions have not been uniform upon the question whether fixing in advance the price to be paid and the duration of the stay of a visitor at a hotel, has the effect in law to constitute such person a mere boarder or lodger, and to deprive him of the character of guest, yet our examination of the subject has led to the conclusion that, regarding hotels as they are now conducted and patronized, such an arrangement does not necessarily have an effect to prevent the relation of innkeeper and guest, and the obligations which attach thereto. * * The law which renders the keeper of a hotel liable for the baggage of the guest which is stolen from the room assigned him, and which remains in the care and supervision of the landlord and the servant whom he selects, is salutary, and should not be rendered substantially inoperative by adopting technical distinctions

which rest upon ingenious speculation rather than sound reason."

NOTES OF CASES.**COURT OF QUEEN'S BENCH.**

MONTREAL, Feb. 4, 1879.

SIR A. A. DORION, C.J., MONK, RAMSAY, CROSS, JJ.

REEVES (plff. below), Appellant, and GERIKEN (def. below), Respondent.

Hypothecary Action—Personal recourse.

The case arose out of the purchase of a tract of land by Geriken and two associates, Lafranboise and Robitaille, from Quesnel, half of which property had been bought by Quesnel from the appellant, Mrs. Reeves. There was an amount due to the appellant by Quesnel on this property which the respondent and his associates undertook to pay. Subsequently the appellant brought a hypothecary action against the respondent and the other two, and thereupon Geriken made a *délaissement* of his share of the property. Then the appellant instituted a personal action against Geriken, and the question was whether this was permissible, after she had accepted the delegation in the deed, and brought a hypothecary action. The Court below (Rainville, J.) considered that the appellant having chosen to bring a hypothecary action, and the respondent having *délaisé* the immoveable, the matter was no longer in the same position, and the appellant had no recourse against the respondent personally. The judgment was in the following terms:—

"La cour, etc."

"Considérant que la demanderesse, en vertu de l'acte de vente en date du 14 Octobre 1874, par Quesnel au défendeur et autres, aurait pu, vu la stipulation faite en sa faveur par le dit acte, porter l'action personnelle contre le défendeur pour réclamer le montant à elle délégué par le dit Quesnel et que le défendeur s'était obligé de payer à la dite demanderesse, à l'acquit du dit Quesnel;

"Considérant que le dit Quesnel n'avait délégué à la dite demanderesse et n'avait chargé le dit défendeur de lui payer qu'une partie de ce qui lui était dû;