do so. After arriving in No. 97, the plaintiff opened his dressing case bag and took thereout a stand and placed it on the dressing table. This stand contained a large number of silver-mounted bottles, a flask with brandy in it, and also ivory brushes, combs, boot and button hooks, knives, scissors and other implements supposed by some to be requisite for the proper performing of a toilet. In a drawer in this stand were the trinkets for the loss of which the action is brought. The plaintiff washed and dressed, and then went down stairs into the coffee room, and had breakfast, having left No. 97 unlocked, with the stand of his dressing bag exposed upon the dressing table as above described. He gave no information to any one of what he had done. Having paid for his breakfast, which I take also included the accommodation he had had, he went out, and did not return to the hotel till late at night on the same day. In the meantime—namely, about 9 P. M.—the lady and gentleman for whom No. 97 had been reserved, arrived and were shown up thereto by the page boy of the hotel. Upon going into the room the page boy found the plaintiff's luggage situated as above mentioned, and whistled down the tube to the head porter for directions. No evidence was given to show that the head porter or any one else in the hall was aware of the way in which the plaintiff had left his dressing bag and its stand, or of its contents. The page boy, pursuant to the order of the head porter, removed the luggage into the corridor, and there left the stand as it was, the dressing bag, and the other luggage. At about half-past twelve at night, the plaintiff, having shortly before returned to the hotel, asked for his room, but was told that he had none. It was ascertained however that a room upon the first floor had been vacated by a gentleman leaving by the night train, and this was given to the plaintiff. The plaintiff then entered his name in the guest book, pursuant to the practice of the hotel when guests are received, and his luggage was brought down to the first floor from the corridor on the fourth. The next morning the plaintiff discovered that his trinkets had been stolen from the drawer of his dressing bag stand, and the brandy in the flask was also partly abstracted. This action was thereupon brought. The first question is, whether the plaintiff was a guest in the defendants' hotel when the trinkets were stolen, or whether the liability of the defendants to him was that of bailees either gratuitous or for reward; or what (if any) other relationship then existed between them. In my judgment, whatever the plaintiff's position may have been during the short period of time he was dressing and having breakfast, he was not a guest after he left in the morning to go to the races, and after which, as I infer, the trinkets were stolen. At any rate, there is no proof that they were stolen before he went to the races. He had been expressly told that he could have no room; he was simply permitted to dress and breakfast; he signed no admission book, which it was the practice for guests to do; he paid cash for what he had before leaving in the morning, upon the footing that he was not staying at the hotel, and this payment was entered in what was called the chance book. In my judgment he was not a guest when his goods were stolen. This point is material, inasmuch as an innkeeper is *prima facie* liable for his guests' goods, and the proof of loss of such goods whilst at an inn is *prima facie* evidence of negligence on the part of the innkeeper or his servants. This presumption which the law draws adversely to the innkeeper is capable of rebuttal, as in the case of other presumptions, and one class of case in which it has been authoritatively held that the presumption is rebuttable is where it is established that the loss would not have happened if the guest had used the ordinary care that a prudent man may be reasonably expected to take under the circumstances, or in other words, has been guilty of negligence which brought about the loss. This I understand to be settled law, affirmed and reaffirmed by the following cases: *Burgess* v. *Clements*, 4 M. & S. 306; *Cashill* v. *Wright*, 6 E. & B. 891, in 1856; *Morgan* v. *Ravey*, 6 Hurl. & N. 265, in 1861; *Oppenheim* v. *White Lion Hotel Co.*, 25 L. T. Rep. (N. S.) 93; L. R. 6 C. P. 515, in 1871; *Jones* v. *Jackson*, 29 L. T. Rep. (N. S.) 399, in 1871; and *Herbert* v. *Markwell*, 45 id. 649, in 1881. This presumption of liability does not exist in the case of