

THE LIABILITY OF INNKEEPERS.

cion, in became his duty, *in whatever room he might be*, to use at least ordinary diligence, and particularly so as he was occupying the chamber for a special purpose. *For though, in general, a traveller who resorts to an inn may rest on the protection which the law casts around him, yet if circumstances of suspicion arise, he must exercise at least ordinary care.*"

A late case upon the subject is *Oppenheim v. White Lion Hotel Co.*, L. R. 6 C. P. 515. The plaintiff went to a hotel in Bristol, and, while in the Commercial room, took from his pocket a bag containing £27, and took from it sixpence. He then went to bed, but did not lock or bolt the door, and placed his clothes, the bag of money being in one of the pockets, on a chair at his bedside. He also left his window open. During the night some one entered by the door and stole the bag and money. The judge told the jury to consider whether the loss would or would not have happened if the plaintiff had used the ordinary care which a prudent man might reasonably be expected to have used under the circumstances. The jury found for the defendant, and the Court above held that the direction was right, and the verdict warranted by the evidence. Keating J. said "There were other circumstances besides the omission to lock the bedroom-door. Although the plaintiff did not, when in the commercial room, expose his money, he took the bag out of his pocket to take a coin from it; and it would seem that some one saw where the bag was put, for the thief went direct there. * * * The whole of the facts must be looked at. The only question was, whether there was evidence of negligence on the plaintiff's part which contributed to the loss. I think there was." Montague Smith J. said, "I agree that there is no obligation on a guest at an inn to lock his bed-room door. * * * But the fact of the guest having

the means of securing himself, and choosing not to use them, is one which, with the other circumstances of the case, should be left to the jury. The weight of it must, of course, depend upon the state of society at the time and place. What would be prudent at a small hotel in a small town, might be the extreme of imprudence at a large hotel in a city like Bristol, where probably three hundred bedrooms were occupied by people of all sorts." Willes, J., referred to such a circumstance as there being races in the neighbourhood as one which would entail greater caution upon the guest. See also *Cashell v. Wright*, 6 E. & B. 89, where it is laid down broadly that the rule of law resulting from the authorities is, that the goods remain under the charge of the innkeeper and the protection of the inn so as to make the innkeeper liable, as for breach of duty, *unless the negligence of the guest occasions the loss in such a way as that the loss would not have happened if the guest had used the ordinary care that a prudent man may be reasonably expected to have taken under the circumstances.* In these cases then, though it is of course impossible to frame a definition of contributory negligence, the general rule may be found for the conduct of the judicious traveller; and we may even deduce three cardinal rules which the traveller will do well to bear in mind—rules which are consonant with common sense, and are therefore adopted by the law:

1. Under any circumstances lock your bed-room door when you go to bed.
2. Do not make a display of your money in public places, such as the commercial room or the bar of the house.
3. Consider whether there are not special circumstances, calling for special caution on your part.

These are rules which, in truth, the man of ordinary prudence will adhere to without legal advice, and the man of or-