

and there were regular boarders as well as transient guests. The overcoat was hung in his room, where he left it there on the morning of Nov. 10th, and closed the door, but did not lock it, as he had no key. When he returned in the afternoon the coat was missing. He reported the loss to the plaintiff. It was said that the chambermaid had seen a man in the corridor with an overcoat which seemed to answer the description.

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CHAPPLE, Co. J.:—As far as determination of this action is concerned I do not think the locking of the door is material in order to shew negligence on the part of the defendant, as urged by counsel for the plaintiff. The authorities differ in that respect.

The learned judge here referred to *Filipowski v. Merryweather*, 2 F. & F. 285; *Oppenheim v. White Lion Hotel Co.*, 40 L.J.C.P. 231; *Herbert v. Markwell*, 45 L.T. 649.

I am of the opinion that the gist of this action is more a question of the liability of the plaintiff than that of the defendant. The question to be decided is, was their relationship that of innkeeper and guest or that of boarding house keeper and boarder or lodger? "A guest is defined as a transient person who resorts to and is received at an inn for the purpose of obtaining the accommodations which it purports to afford." American Ency., vol. 16, page 516. The general rule of law with respect to the liability of an innkeeper as to the safety of the effects of his guests appear to be "that it is his duty to keep the goods of his guests safely night and day so that no loss shall happen through his default or that of his servants or others for whose presence in the inn (or hotel) the innkeeper is responsible, and if he is guilty of any breach of this duty he is liable to the party injured for the loss sustained."

In *Cashill v. Wright*, 6 E. C. & B. C. 891, it was held: "Where goods of a guest at an inn are lost the innkeeper is liable as for a 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, and where there is negligence on the part of the guest the innkeeper is not responsible."

The late Judge Gorham, of the County Court of Halton, considered the matter of the relationship of innkeeper and guest