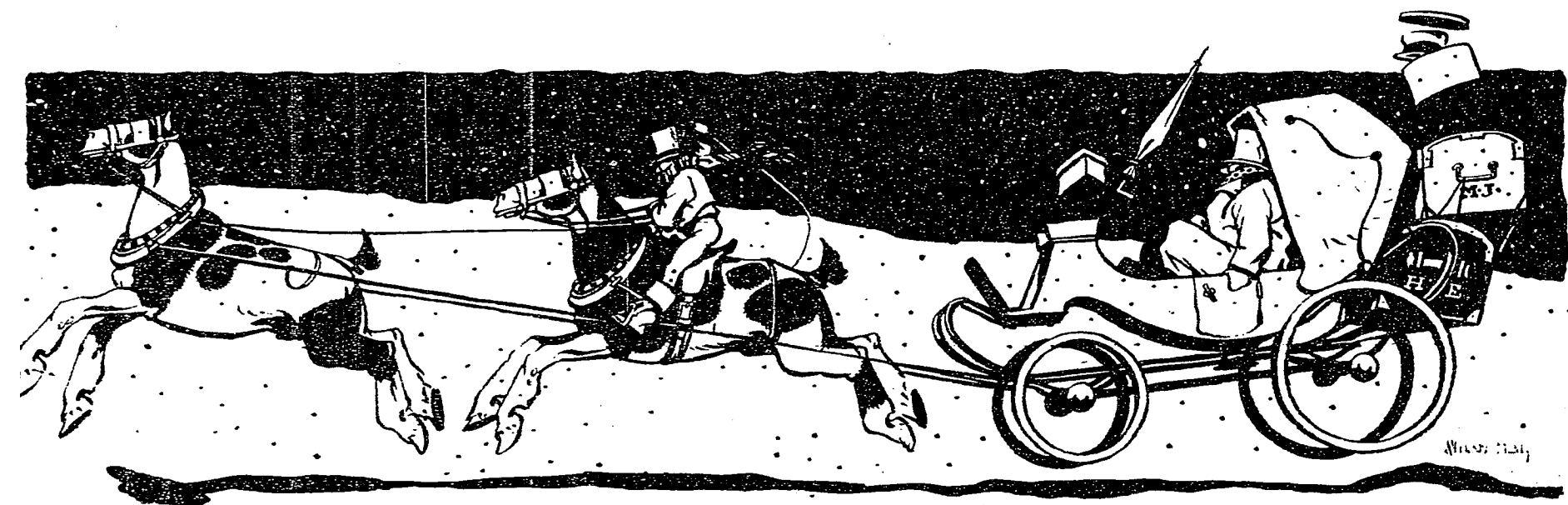


# The Stranger Within the Gates



"In days of old, conditions of travel in Merrie England must have been more picturesque than pleasant."

By MARY FISHER TORRANCE

**I**N days of old, when knights were bold, conditions of travel in Merrie England must have been more picturesque than pleasant. Folk who had to go forth on pilgrimages traveled by stage coach, or else in companies on horseback, banded together for mutual protection against the perils of the road. When darkness descended, shelter over night for man and beast was found at some wayside inn renowned for its roaring log fires, brimming tankards and genial hospitality to all. There weary souls might rest in peace until morning, provided, always, that mine host and his servants were honest men and not robbers themselves, or in league with robbers.

Because at an early day it was recognized that the man on his travels was in a peculiarly helpless position, alternately at the mercy of stage driver and innkeeper, the common law endeavored to surround him by safeguards looking toward his protection, making the practices of innkeepers and carriers singularly subject to review. It was held expedient that these two classes of persons, having undertaken the business of serving the public, become vested with the responsibility of doing so properly, and answerable for any loss or damage arising from their default.

Such was the rule under the common law, and such is the rule today, though horse-drawn coaches have given way to steam, electricity and gasoline. The primitive tavern has yielded to skyscraping hostleries, with a private bath to every guest, abounding in all the minor comforts, such as a brand-new toothbrush for the man who left his at home, wash-cloth of freshness undefiled, and some neat little cakes of soap convenient as souvenirs for the children. Other times, other customs; but today, as of yore, innkeeping and carrying remain quasi-public callings.

The prime rule of the game is that, once in business, innkeeper and carrier must cater to all alike. The Civil Rights law of the State of New York states the duty succinctly:

"All persons within the jurisdiction of the State shall be entitled to the full and equal accommodations, advantages and privileges of any place of public accommodation \* \* \* subject only to the conditions and limitations established by law, and applicable to all alike."

And thus the Penal Code:

"A person who on his own account, or as agent or officer of a corporation, carries on business as an innkeeper or a carrier of passengers, and refuses without just cause to receive and entertain any guest, or to receive and carry any passenger, is guilty of a misdemeanor."

Only a few years since a law was passed that forbade the publishing

of any notice warning persons of any particular color, race or creed from seeking accommodations, on the ground that they would be unwelcome as guests. Hence the increase in the number of Summer and Winter resort "clubs," wherein alleged membership is used to take the "ill" out of "illegality."

But while it is now outside the law for a hotel to flaunt a banner with such strange device as "Mahometans, move on!" or, more simply, "Indians, heraus!" it is quite legal to intimate to the traveling public that "when you ain't got no money den you needn't come 'round." Hotels and carriers are not expected to run or be run as eleemosynary institutions, and the stranger seeking entrance within the gates must be ready to pay. A hotelkeeper need not sanction the admittance of persons suffering with contagious diseases; individuals drunk or disorderly, either or both; persons of evil

repute, or those who are met for an illegal purpose, such as prostitution or prizefighting.

But the innkeeper at his peril excludes a guest on the ground of his or her being in "unconventional attire," such as overalls, fancy dress or in any other style not entirely in accord with the bonton; or, specifically, the uniform of the United States. Unless the hotel be one catering only to men, it must not deny accommodations to an unescorted female, even if she arrives late at night with nothing but a Boston bag to countenance her.

But, of course, in actual practice, the suave young hotel clerk practices just such discriminations every day in the week. If he sees you coming and registers his inward objection, "I do not like thee, Dr. Fell," the best he can promise is a room in the annex, week after next. Experience has rendered him 100 per cent. efficient in turning down the unwelcome

stranger, whether it be a too-swarthy gentleman from Haiti or South America or an unsterilized appearing customer who might be the forerunner of the Bolshevist convention. The applicant rebuffed may be mortally certain that the clerk's declaration, "No room," is a downright lie; but in nine hundred and ninety-nine cases out of a thousand the bona fide applicant slinks away meekly enough, to seek refuge elsewhere. The thousandth man makes a test case of himself in court, with all the hotel forces arrayed against him to swear that the facts were quite different from those that he states. If he does win his case, the jury may award him 6 cents damages.

The earliest hotel on record in New York City was Krieger's Tavern, about 1642, replaced in 1703 by the King's Arms. At about the time that the town became English a proclamation was issued regulating the inns, with the stipulation that meals were not to cost more than eightpence nor beer sixpence the quart. Today the only check on profiteering comes through the natural law of competition; but for the purpose of advising guests of intended charges, rates for room and board in hotels must be posted conspicuously on the premises.

In general, an innkeeper is expected to look out for the comfort and safety of his guest, keep his hotel reasonably habitable as to sanitation and supply food reasonably fit for human consumption; but this last he does not guarantee. There is a case on record against a proprietor, brought by a guest who, when a piece of cake had been served him neatly wrapped in tissue paper, plunged his eager teeth therein and struck a tack! But the proprietor pleaded with telling effect that "he didn't want to do it," and really couldn't imagine how it happened, and was held not liable. In another case a restaurant keeper was assessed for damages from burns to a guest when a careless waiter spilled a cup of hot coffee; and another proprietor had to pay when a lady's dress was ruined through an overturned plate of soup.

The public health law declares that every hotel in the State shall be bound to furnish sheets of a length which shall be "ninety-one inches when hemmed," but as the concluding section of this article exempts from this requirement "cities with over a million inhabitants," seemingly until the word goes forth from City Hall hotel keepers of Greater New York remain free to furnish sheets of any length they like, or no length at all.

At common law innkeeper and carrier were alike insurers of the traveler's baggage, unless the damage or loss occurred through the act of God, public enemy, or fault of the traveler himself. Lightning, tem-

pest, earthquake, extraordinary flood, unusual snowstorm, severe gale of wind—such disasters have been held acts of God; fires and boiler explosions, contrariwise.

But the common law liability is limited thus by the general business law of the State of New York:

"No hotelkeeper shall be liable for the loss of wearing apparel, goods, or merchandise \* \* \* exceeding the sum of \$500, where it shall appear that such loss occurred without the fault or negligence of the innkeeper."

We are all familiar with the notice posted in hotel bedrooms warning guests to deposit money, jewels and ornaments in the safe downstairs, else the house will not be liable. But in New York State the hotel is not compelled to care for valuables in amount exceeding \$500; and for valuables accepted for safekeeping the hotel is liable only up to \$250, except by special agreement in writing. The principle is to charge the innkeeper with the duty of protecting the personal effects with which a guest might ordinarily be traveling, but not for an extraordinarily large amount of valuables, which could only adequately be guarded in a safe deposit vault.

It should be observed, incidentally, that a hotelkeeper may not free himself from all responsibility incident to his calling simply by tacking up a notice in each room that he declines to be responsible for loss. However reasonable it may be to stipulate that money and jewelry shall be deposited in the safe, it would clearly be unreasonable, as impracticable, to insist that all articles of wearing apparel not in immediate requisition by the guest should be kept downstairs in the office.

Everywhere today, in the interest of trade, with the tremendous risks that must daily be assumed, statute limits the common law liability of carriers as insurers. According to New York law, a carrier is allowed to contract against the negligence of its servants. Now, how about this "limited liability" so far as it affects you and me? Most of us think we know the nature of a contract, but we are loath to feel ourselves bound by a lot of printed matter on the back of a railway ticket or baggage receipt that we didn't trouble to read, not having our glasses on.

According to edicts of the Public Service Commission, which has been given jurisdiction over certain classes of carriers that by reason of grants and franchises from the State have virtually become monopolists in their given localities, the law reads thus:

"A clause in a railroad ticket simply releasing a carrier from liability for loss of goods will not include a case of its own negligence, unless such exemption is expressly stated; but—"

(Continued on Page 24)



"But the innkeeper at his peril excludes a guest on the ground of his or her being in unconventional attire."

# The Stranger Within the Gates

(Continued from Page 2)

(I wish what follows might be noted with care)

"—a clause, in consideration of reduced rates, properly limiting the liability of a carrier to a specified valuation of the goods received by it, will include a loss or damage arising from its own negligence, without express mention thereof."

Suppose, on returning to New York after a long journey, you give your baggage check to the agent of the transfer company on duty at the railroad terminal, with instructions to deliver the trunk at your residence, in usual course. In return you receive a receipt with a big red number, which you tuck away reflecting gloomily that the cost of baggage delivery is much higher than it used to be, or ought to be. And that is all: unless the trunk in transit mysteriously disappears at the hands of persons unknown. Of course, you expect the express people to make good; but will they?

There is a section of the Public Service Commissions law which starts off thus:

"Every common carrier, baggage company, transfer company and railroad corporation, shall be liable for loss, damage and injury to property carried as baggage, whether in connection with the transportation of the owner or not, up to the full value and regardless of the character thereof"—

("I thought so!" you exclaim triumphantly. But, to proceed)—

"but the value in excess of \$150 shall be stated upon delivery to the carrier, and a written receipt stating the value shall be issued upon delivery to the carrier, who may make a reasonable charge for the assumption of such liability in excess of \$150, and for the carriage of baggage exceeding 150 pounds in weight, upon a single ticket or receipt."

Now, did you tell the agent how much more your trunk was worth than \$150 and pay the excess charge for delivery? Indeed, you did not; you didn't know, and the chances are that you would have acted the same had you known, for you did this time just as you had always done, and the trunks in previous instances had never failed to arrive with a bang in your front hall.

But late decisions in this State regard the silence of a man who receives a baggage receipt as acquiescence in the terms of that perfectly lawful contract printed on the back. That he did not know the law is no excuse.

Gone are the days when knights were bold; but highway robbers, sneak thieves and footpads are still going strong, and, despite the general slump in trade, the business of being a burglar seems better than it ever was. Any night you may wake up to discover that you have a little bandit in your home, and it may happen equally well in a strange hotel, in a sleeping car or in a pink-and-green taxicab.