

PULLMAN CAR CO. LIABILITY.

important advantage this combination of speed and cheapness must be to land holders of all classes. Nor are the means of releasing or assigning mortgages less simple, a mere short endorsement on the instrument in either case effecting the desired object in a few minutes. The process of foreclosing upon default is also simple, speedy and effectual. Leases are registered with the same facility, usual and ordinary covenants being condensed by the use of abbreviated terms prescribed by the Act, special agreements only being set forth in full."

BEVERLEY JONES.

SELECTIONS.

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The recent decision of the Supreme Court of Illinois in *Nevin v. Pullman Palace Car Co.*, has been pretty generally announced with quite a flourish of trumpets, by the lay press, (and, indeed, several law journals have fallen into the same error), as settling the disputed question as to whether sleeping car companies are common carriers and liable as such. We have not yet seen a full report of the decision, but judging from the headnote of Mr. Freeman, the reporter of the court, and the newspaper accounts which we have seen, the court decides nothing of the kind; but simply that the business of running sleepers has become a social necessity, and that there is upon the company an obligation to furnish accommodations to those who desire them, similar to that imposed upon common carriers, ferrymen and inn-keepers. The court is quoted as saying: "When, therefore, a passenger who, under the rules of the company, is entitled to a berth, for the usual fare, and to whom no personal objection attaches, enters the company's sleeping-car at the proper time for the purpose of procuring accommodation, and in an orderly and respectful manner applies for a berth, offering or tendering the customary price therefor, the company is bound to furnish it; provided it has a vacant one at its disposal. For a breach of any of these implied duties, the court holds the company clearly liable." This is

a very different thing from imposing upon them the multitudinous and onerous obligations and liabilities of common carriers proper. Thus it is more than doubtful whether any court would regard this decision as conflicting with the doctrine established in *Pullman Palace Car Co. v. Smith*, 73 Ill. 360; *Diehl v. Woodruff*, 10 Cent. L. J. 66, and *Blum v. Southern Palace Car Co.*, 3 Cent. L. J. 591, that the sleeping car companies are not liable for baggage of passengers stolen or lost while in the car, either as common carriers or innkeepers, but simply for the use of reasonable care and diligence; that is, they are in no sense insurers, but simply bailees for hire. This view of the law is supported by reason as well as authority. There is no sort of analogy of circumstances by which these "flying nondescripts," as Judge Thomson calls them in his work on Carriers of Passengers, p. 531, can be regarded as inns. We know of no better summary for the reasons for regarding them as distinct, than that contained in the charge to the jury of Judge Brown, of the Western District of Tennessee, in the case of *Blum v. Southern Pullman Palace Car Co.* 3 Cent. L. J. 592. The substance of the reasons there stated is briefly:

1. The peculiar construction of sleeping cars is such as to render it almost impossible, even with the most careful watch, to prevent the occupants of berths from being plundered by occupants of adjoining sections.
2. The innkeeper is compensated for his extraordinary liability by a lien upon the goods of his guest for the price of entertainment.
3. The sleeping car company has no such lien. The innkeeper must receive every guest who applies for entertainment. The sleeping car company receives only first-class passengers traveling on that particular road, and it has not yet been decided that it is bound to receive those. [This, however, is the very point, and the only one, settled by *Nevin v. Pullman Palace Car Co.*, so far as we have been able to learn.—Ed. Cent. L. J.]
4. The innkeeper is bound to furnish food as well as lodging, and receive and care for the goods of his guest, and his liability is unrestricted in amount. The sleeping-car furnishes no food, but a bed only, and receives no luggage or goods.
5. An inn is an imperative necessity to a traveller. The sleeping car is a luxury, and the traveller by rail is not obliged to avail himself of it.
6. The innkeeper has absolute control over his premises and may exclude every one but his