certainly would be inequitable to the company to charge it with liability for any indefinitely large sum which a man may choose to carry with him and place under his pillow. *Blum* v. *Southern Pullman Car Co.* (supra); *Root* v. *Sleeping Car Co.* (28 Mo. Appeals, 200). *Wilson* v. *B. & O.R.R.Co.* (32 Mo. Appeals, 682).

The two Missouri cases last cited hold, in addition to the propositions above laid down, that a passenger who leaves in his waistcoat, in his berth, a large sum of money, while he goes to the closet at the end of the car, is guilty of contributory negligence as matter of law. If a passenger, before retiring, leaves his clothing and valuables in an empty berth directly above him, which upper berth he has not hired and does not control, it is not as a matter of law such contributory negligence as will bar recovery for loss of the articles. (*Florida* v. *Pullman Car Co.*, 37 Mo. Appeals, 598).

The whole gist of the matter in these sleeping car decisions is that the contract contemplates the passenger's going to sleep, and that the company is therefore bound to take precautions to protect him from stealthy theft. If the passenger is awake the ordinary rules as to taking care of his own property apply. On this point it has been held (*Whitney* v. *Pullman Palace Car Co.*, 143 Mass., 243), where a passenger on a parlor car got off at a station for refreshments, leaving property on her seat which she did not put under the charge of defendant or its agents, and the same was stolen during her absence, that she was guilty of contributory negligence fatal to her action.

CAPITAL PUNISHMENT.—Some time ago Sir James Mackintosh, a most cool and dispassionate observer, declared that, taking a long period of time, one innocent man was hanged in every three years. The late Chief Baron Kelly stated as the result of his experience, that from 1802 to 1840, no fewer than twenty-two innocent men had been sentenced to death, of whom seven were actually executed. These terrible mistakes are not confined to England. Mittermaler refers to cases of a similar kind in Ireland, Italy, France, and Germany. In comparatively recent years there have been several striking instances of the fallibility of the most carefully constructed tribunals. In 1865, for instance, an Italian named Pelizzioni was tried before Baron Martin for the murder of a fellow-countryman in an affray at Saffron Hill. After an elaborate trial he was found guilty and sentenced to death. In passing sentence the judge took occasion to make the following remarks, which should always be remembered when the acumen begotten of a "sound legal training" and long experience is relied on as a safeguard against error: "In my judgment, it was utterly impossible for the jury to have come to any other conclusion; the evidence was about the clearest and most direct that, after a long course of experience in the administration of criminal justice, I have ever known. . . . I am as satisfied as I can be of anything that Gregorio did not inflict this wound, and that you were the person who did." The trial was over. The Home Secretary would most certainly, after the judge's expression of opinion, never have interfered. The date of execution was fixed. Yet the unhappy prisoner was