

statement of claim, which the Court of Appeal held did not disclose a cause of action. This decision the House of Lords (Lords Selborne, Watson, Macnaghten, Morris, and Shand) have affirmed. The case was this: The plaintiff was a passenger on the defendants' railway; he travelled in a carriage intended to hold only ten persons, into which sixteen other persons were subsequently admitted; they hustled and robbed the plaintiff, on the journey, of £89 rs., and, on his arrival at the next station, he requested the station master to detain the train, in order that he might give the men in the carriage into custody, which the station master refused to do. The plaintiff claimed, as damages, the amount of money of which he was thus robbed. Their lordships agreed with the Court of Appeal that the suffering of the carriage to be overcrowded was not the necessary cause of the robbery of the plaintiff, and that there was no duty on the part of the company to the plaintiff to detain the train. Lord Selborne expresses the opinion that, if any such duty existed, it was a duty, not to the plaintiff, but to public justice, for failure in which, by one of their servants, the defendants were not liable to an action for damages. He doubts the correctness of the decision in *Pounder v. N.E. Ry. Co.*, (1892) 1 Q.B. 385 (see *ante* vol. 28, p. 236), where it was held that a railway company was not liable in damages for injuries sustained by a passenger at the hands of fellow-passengers, which, by the exercise of reasonable care, the defendants might have prevented. Lords Watson, Macnaghten, and Shand refrained from expressing any opinion on that decision, and Lord Morris was of opinion that it was correct. It is not impossible that, if such a question should ever arise in Canada, it might meet with a different solution at the hands of the Privy Council, having regard to the different methods prevailing here in the operation of railways, and the consequent superior facilities which a railway company's servants possess in protecting passengers from assault or robbery while in transit. The American cases, as we formerly pointed out, are more favourable to the passenger than English law, as now settled, appears to be.

JUDGMENT AGAINST EXECUTOR WHO HAS APPLIED FOR, BUT NOT TAKEN OUT
PROBATE—EXECUTION.

Mohamidu v. Pitchay, (1894) A.C. 437; 6 R. Oct. 21, although an appeal from a Cingalese court, is, nevertheless, instructive and