NOTES OF RECENT DECISIONS.

LIBEL.

In *Com.* v. *Willard*, Erie Sessions, Pennsylvania, February 28, 1881, it was held that it is no defence to an indictment against one who is the editor and publisher of a newspaper that the libellous article complained of was written and inserted by the local editor of the journal, without the knowledge of the defendant, and in violation of a general order forbidding the publication of any article of a libellous nature without first submitting it to the publisher for his approval. The court said: "Aside from the incalculable damage that may and often does result to the innocent from a misuse of the press in the hands of reckless or malicious persons, and the consequent caution proper to be exacted from those managing newspapers as to the selection of the subordinates in whose hands they intrust this dangerous power, there is the peculiarity incident to the profession of a publisher that the publication of a journal, or a magazine, or a book, is not the visible, manual act of the publisher himself, but is made up of the labors of many different persons, in no one portion of which he may have an actual part. He may not be present at or witness any single one of the various processes of work by which the completed book or newspaper is finally produced; he may not even see it when done and issued to the public, and yet the publication is his act. This is in part, no doubt, the reason why the law of libel forms an apparent exception to the usual rule that one can only be liable criminally for his own individual acts. That such is the law, whatever may be the reason for it, there would seem to be no question. It was established by a long line of cases in England, decided by such judges as Hale, Mansfield, Raymond, Kenyon, Powell, Foster, Ellenborough, and Tenterden, and which will be found fully stated in a note in Starkie on Slander, 1st Am. ed., vol. 2, pp. 30-34. It is found clearly recognized in all the leading text-books on criminal law, and has also been recognized and affirmed by the courts in many of the States of the Union." This is supported by Roscoe Crim. Ev. (6th Am. ed.) 621; Whart. Cr. Law, § 2564; *King* v. *Gutch*, 1 M. & M. 433; *Com.* v. *Morgan*, 107 Mass. 199; *Perrett* v. *N. O. Times*, 25 La. Ann. 170. *Smith* v. *Ashley*, 11 Metc. 367, is overruled by the later Massachusetts cases. The court concluded as follows: "The present case, it will be observed, is not that of a libel surreptitiously smuggled into a newspaper by an employee whose position did not authorize him to prepare or select matter for its columns, as was the fact in *Goodrich* v. *Stone*, 11 Metc. 486, for the article was prepared by the local editor, employed for and entrusted with that branch of the business, and it was done in the usual course of his daily occupation. Nor is it the case of objectionable matter shown to the publisher and by him refused, and afterward printed against orders, nor was it a fraud or imposition practised upon a publisher, by which he was misled. It is not even the case of a publisher absent from the town, and obliged to trust the management to another during his absence. As shown by the testimony of the defendant himself, it was simply the case of an editor and publisher of a newspaper leaving his press and office to the sole control of a subordinate, and with such apparent indifference to the outcome of this confidence that up to the time of his arrest he had not even seen the publication complained of. It may be considered by judicious, thoughtful men, who are in favor of the freedom of the press, but opposed to its license, that this case furnishes in itself an illustration of and an argument for the wisdom of the rule, but be that as it may, it is my duty to enforce the law as it is, and not to theorize as to what it ought to be."—*Albany L.J.*

RIGHTS AS TO BURIAL PLACE.

In *Weld* v. *Walker*, Massachusetts Supreme Court, January, 1881, we find a novel question decided, Chief Justice Gray delivering the opinion. The plaintiff, in a bill in equity, alleged in substance, that two days after the death of his wife he consented to her burial, in a coffin and grave-clothes procured by himself, in a lot in the cemetery of the defendant corporation, owned by the husbands of two sisters of his wife; that he consented to such burial while in great distress of mind, and worn out by taking care of his wife during her last illness, and yielding to continued importunities of the sisters and the husband of one of them,