

resident of Toronto, yesterday," that is, the day before the publication; while his plea professes to rest the excuse and justification for the publication, upon the fact that the matters of the libel were the subject of public notoriety. These do not seem to me to be at all consistent with each other. The defendant is apparently shifting his ground from that which was expressly taken at the time of the publication. That which he learned afterwards—assuming that he did so learn it all, can, in the nature of things, be no excuse or justification for what he did before he did learn it. I cannot allow the plea as at present framed; but if the defendant choose to frame it as a general plea, that the publication was a fair and *bona fide* comment, &c., I will allow it for what it may be worth. In an action of this kind, the defendant should be allowed every reasonable opportunity to excuse or justify his conduct, consistent with the plaintiff's rights, and the fair and convenient prosecution of the action.—*U. C. Law Journal*.

#### RECENT AMERICAN DECISIONS.

*Nuisance—Tomb erected on Land.*—A tomb erected upon one's own land is not necessarily a nuisance to his neighbor; but it may become such from locality and other extraneous facts. Plaintiff proved that defendant's tomb, erected within 44 feet of the former's dwelling-house, contained, in 1856, nine dead bodies, from which was emitted such an effluvium as to render his house unwholesome; that, after an examination by physicians, the bodies were removed; that the tomb remained unoccupied thereafter until 1865, when another body was interred therein; that the plaintiff's life was made uncomfortable while occupying his dwelling-house, by the apprehension of danger arising from the use of the tomb; and that the erection and occupation of the tomb had materially lessened the market value of his premises. In an action for damages on the foregoing facts: *Held*, a non-suit was improperly ordered. *Barnes v. Hathorn*, 7 Am. L. Reg. 81.

*Engagement at Fixed Salary—Wrongful Discharge.*—Where a person employed for a certain term at a fixed salary, payable monthly, is wrongfully discharged before the end of the term, he may sue for each month's salary as it becomes due; and the first judgment will not be a bar to another action for salary subsequently becoming due. *Huntingdon v. Ogdensburgh and Lake Champlain Railroad Co.*, 7 Am. L. Reg. 143.

*Liability of Carrier.*—A carrier may by special contract limit his liability except as against his own negligence. Where a person delivers goods to a carrier and receives a bill of lading expressing that the goods are received for transportation subject to the conditions on the back of the bill, by one of which the carrier's liability is limited to a certain rate per lb., this constitutes a special contract by the parties, and the carrier, in the absence of proof of negligence, is only liable at the rate agreed upon. *Farnham v. The Canadian and Amboy Railroad Co.*, 7 Am. L. Reg. 172.

*Carrier.*—Plaintiff took passage on the steamer of the defendants, and paid her fare, which included her board on the passage, a state-room, and lodging. She was assigned to the room by the proper officer of the boat; and another woman, a stranger to the plaintiff, was afterwards assigned to the same room. The plaintiff, when she went to bed, left her dress, in the pocket of which was her portmonnaie, with some personal jewelry, and money for her travelling expenses, on an upper unoccupied berth. During the night, while the plaintiff was asleep, the money and jewelry were claimed to have been stolen, but whether by some one from without, or by the other woman within, did not conclusively appear, though the evidence tended to show that it was stolen from without, through a window which the steward of the boat knew to be broken. As to whether the defendants were liable for the property, if stolen, the court were equally divided, two of the judges holding the defendants liable, as carriers, to the same extent an innkeeper would have been for a similar loss by a guest oc-