

not belong to the defendant, nor did the defendant have any lease of it, although it had been used by the defendant for some time for the landing of its boat. The court said: "The accident under consideration occurred at a place which was open to the general public, which they had been long accustomed to use, and into which they were impliedly invited to enter. They had, therefore, a right to assume that no traps existed that would make such entry dangerous. The appellant claims that as the plaintiff came upon the premises solely to gratify his curiosity, and was at most but a licensee, the defendant owed him no duty of active vigilance. But defendants must be held to have contemplated the natural consequence of their acts. They carried on an occupation which would naturally draw together numbers of people in a public place, with instruments that were so defective as to be eminently dangerous to human life. That was a breach of duty to the public for which they may be justly held responsible. The plaintiff might well suppose that defendant's business was conducted with ordinary care; there being no warning of danger, he may well have thought that none existed. In thus supposing, and in acting accordingly, the jury have found that he was not guilty of negligence. We think the question was properly submitted and by them properly decided. We also think this case is within the reason of the rule that holds the owner of the real estate liable when he allows a dangerous place to exist without warning, so near a highway that by-passers will be liable to suffer. If the owner of real estate will dig a pit nigh to the public road he must fence it or be liable for the injuries it occasions. Such owner is bound to anticipate that a traveller may deviate from the beaten path. And a technical trespasser does not thereby forfeit the protection of the law. As in the case of the druggist who sends abroad a dangerous medicine under a false label, no 'privity of contract' is necessary. The duty which one owes to the public to forbear from conduct which may endanger the safety of others is the foundation of the action."—*Albany Law Journal*.

ATTORNEY ACTING FOR EACH PARTY IN TURN.—In *Weidekind v. Tuolumne County Water Co.*, California Supreme Court, December 23, 1887, it was held error to allow an attorney and counsellor-at-law, who had formerly acted for the plaintiff in the trial of a cause, to appear and act on behalf of the defendant at a subsequent trial of the same cause; his avowed intention being to assist the defendant with all the knowledge and secrets he had gained from plaintiff. The court said: "This action of the court is contended to be such an irregularity on its part as prevented the plaintiff from having a fair trial. It was within the power of the court, if satisfied that the attorney in question had acted on the plaintiff's side of the case on the former trial, to prohibit his acting on the other side in another trial. Weeks' Attys. s. 120. There can be no doubt, from the statement of the attorney to the court, that he proposed to act, and it is also certain that he did act, as an attorney and counsellor for the defendant in the trial of a cause where he had formerly acted for the plaintiff. The trial court