

The Legal News.

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A decision suited to the times was given by the Supreme Court of Iowa, June 2, 1885, in *Gilbert v. Hoffman*, 23 N.W. Rep. 632. The Court held that a hotel-keeper who with the knowledge of the prevalence of small-pox in his hotel keeps it open for business, and permits a person to become a guest, without informing him of the disease, will be liable for the communication of the disease to the guest, and the guest will not be precluded from recovering on the ground of contributory negligence in not making inquiries as to the truth of a rumour that there was small-pox in the house. The Court said: "Counsel for appellants contend that this evidence did not warrant the jury in finding for plaintiff, because (1) it does not show that defendants were guilty of such negligence as renders them liable; and (2) that plaintiff, by going to the house after she was informed of the rumor which was current as to the presence of the disease, and without instituting an inquiry as to its truth, was guilty of such contributory negligence as precludes a recovery. But this position cannot be maintained. The jury, as we have seen, were warranted by the evidence in finding that defendants, with knowledge of the prevalence of the disease in the hotel, kept it open for business, and permitted plaintiff to become a guest without informing her of the presence of the disease. That they would be liable to one who became their guest under these circumstances and contracted the disease while in their house, and who was himself guilty of no negligence contributing to the injury, there can be no doubt. The district court probably left it to the jury to determine whether plaintiff was guilty of imprudence or negligence in going to the hotel after she heard the rumor that the disease was in the house, without inquiring further as to its truth; and they were told that if the circum-

stances were such as that ordinary prudence and care demanded that she should, before going to the hotel, make further inquiry as to the truth of the rumor, and she neglected to do this, and this neglect contributed to the injury, she could not recover. The instruction states the rule on the subject quite as favorably to the defendants as they had the right to demand. By keeping their hotel open for business they in effect represented to all travellers that it was a reasonably safe place at which to stop; and they are hardly in a position now to insist that one who accepted and acted on this representation, and was injured because of its untruth, shall be precluded from recovering against them for the injury, on the ground that she might by further inquiry have learned of its falsity."

A correspondent referred some time ago to the hardship of a case in which a defendant had paid the debt to plaintiff's solicitor, and found that the discharge granted by the latter was not valid. The following note from an English journal shows how solicitors in default are treated in England:—

Before Mr. Justice A. L. Smith, sitting as vacation judge, on the 26th August, Mr. Scarlett moved for the release of a solicitor from Holloway gaol, where he was ordered to be imprisoned on August 10, 1884, for default in obeying an order of Mr. Justice Chitty, made on June 20, 1884. The solicitor in question had acted for a woman in an action for compensation for injuries brought against a tramcar company. A verdict was obtained for £250 damages, part of which the solicitor received under an agreement made with the woman. She subsequently brought her action against the solicitor to recover the money so paid, and the solicitor admitted that the agreement was illegal, and consented to judgment. On June 20, 1884, Mr. Justice Chitty ordered the solicitor to pay £100 into Court, £25 every fortnight, and on August 10, 1884, he made an order for a writ of attachment in default of payment. On August 5, 1885, the solicitor was arrested on his return from Reading, where he had been as witness in a trial. He had been in prison twenty days, and was absolutely without means, and by his imprisonment was deprived of earning the money he was ordered to pay. He submitted that, under the circumstances, the solicitor should be released.—Mr. Dale Hart, of the plaintiff, said that not one of the instalments had been paid.—Mr. Justice A. L. Smith said that the solicitor had been in prison for twenty days—was that enough for what the solicitor had done? In his lordship's opinion it was not, a month would be the proper period. He should order the solicitor to be released on September 5 next.