

ed to do for him, the
his own views and feel-
which at the request of
into writing and as it
ting with the partner-
ating at the same time
tion of his co-partners,
employers,—which the
The writing secured
om £150 to £200 per
on the profits of the
l proposed his admis-
o years upon terms to
by Mr. H. Lyman and
until the rupture had
in it by them either by
in evidence; the law
ized proposal of one
partnership signature
y relieving them and
or responsibility to-
nonfulfilment of the
der of he claims da-
s and advantages.
a. But what profits?
at will which has not
it had existed any
is pleasure, or refuse
ly intended to be
limited partnership
the misconduct of
this case there is no
ity of contract be-
Defendants. He
a, had no control
under any res-
ons or losses; in fact
nor agreement be-
on for a claim to
therefore if profits be
profits in the busi-
pation or distri-
is one of not un-
that of a person
authority he must
er this view of the
sment of damages

proper to refer to
t have been men-
al; but you must
o a decision upon
to you that the
their suppositions
en as proof, and
gs, the rights of
the evidence ad-
n stating his case
first as a propo-
e reminded that
ving it is not an
e secondly he re-
g a proposal for
law requires it
case, it is no con-
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I cannot support
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facing the testi-
fact, but if there
y to pass upon,
testimony in re-
ces. The evi-
defendant, has

also been questioned, and an attempt has been made to discredit his testimony. Lee and Re-nahan have been brought up for the purpose. The latter says nothing at all, and the former, Lee, speaks as to Turnout's driving a prostitute in his cab and getting a small bottle of essence for her at a druggist's. If that were an impropriety in a cabman, it is not an indication of his being generally unworthy of belief—impropriety of conduct such as his, if it even be im-proper, is no indication of perjury—it might as well be said that impurity of conduct would be perjury. Formerly two witnesses were neces-sary in perjury, because there would be no more than one oath against another in a matter of perjury, but though that strictness has long been relaxed, the evidence must more than coun-terbalance the oath of the witness, therefore an opposing witness will not avail against a fact sworn to unless corroborated by other indepen-dent circumstances. Now Lee has not opposed any fact sworn to by Turnout, but draws his con-clusions from the bottle of essence. Turnout's evidence has been supported by others and has been well nigh admitted by the defendant's Counsel. It has also been asserted that the woman with whom the plaintiff had connection was not impure. She lives in a house having brothels on each side; she was backwards and forwards to the house of her mother who kept a brothel, and had lived with her mother four years before when her mother was in the same line of business. The old proverb applies to her—"We are known by our acquaintance." Her character is for your consideration, not mine. But to prevent any misconception on these points, and to bring to your mind the testimony attempted to be discredited, the evidence for the defence, as well as that in rebuttal will be read to you (here that evidence was read). As before stated the appreciation of this testimony is for you, not for me. It is for you to answer the suggestions that are submittal for your verdict as you may see fit. I have only to add that in law no con-tract with defendants in the plaintiffs favour has been proved in any manner against them.

The Jury retired at half-past four, and re-turned into Court at seven o'clock, with the fol-lowing verdict on each of the points submitted to their consideration:—

Answer to Question 1. Yes.

Answer to Question 2. Yes.

Answer to Question 3. According to the evi-dence, the Plaintiff visited one Martha Scott, a woman of doubtful character; but there is no proof of his having co-habitated with her or maintained her in a state of prostitution.

Answer to Question 4. No.

Answer to Question 5. No.

Answer to Question 6. No.

Answer to Question 7. From the evidence, his general character is good, nor is he a person of irregular, immoral or discreditable conversation or repute.

Answer to Question 8. He did. We assess the damages at £1250 currency.

TUESDAY, NOV. 27, 1860.

THE HIGGINSON-LYMAN CASE—JUDGMENT SETTING ASIDE THE VERDICT OF THE JURY.

Mr. Justice Monk, this morning, proceeded to give judgment on the motion of the counsel for

the defendants to set aside the verdict already given in this case, as follows:—

This case is before the Court on two motions by the defendants—one to set aside the verdict of the jury and to dismiss the action, and the other for a new trial. These motions are com-bined in one and presented in an alternative form—that is, the defendants move to set aside the verdict and to dismiss the action, and in the event of the Court refusing to grant that motion, they move that a new trial of the issues be granted.

This mode of offering two or more motions in an alternative form, seems to have been sanc-tioned by this Court and also by the Court of Appeals. Being sanctioned by precedent, the Court holds that the proceeding adopted by the defendants is regular. Ten reasons are as-signed in support of these motions, and in the view of the law and the practice of our Courts taken by the defendants, these reasons are ap-plicable to both. Before examining the valid-ity of these reasons, it may not be amiss to state briefly the grounds upon which motions for new trial, in arrest of judgment and for judgment *non obstante veredicto* are based, and the reasons in law and in fact, usually urged in support of such motions respectively, and, in doing so, I shall speak more particularly of the law as it stood previous to the introduction of our Stat-ute 14 and 15 Vic., Cap. 89. The ground of a motion for new trial may be any irregularity in the proceedings connected with the trial, or any matter extrinsic to the record, shewing that the trial may have been in due form, yet that it has not done justice between the parties. For in-stance, where it appears by the judge's notes of testimony that the jury have brought in a ver-dict without or contrary to evidence—that illegal evidence has been adduced, or that legal evidence has been overruled and refused; that exorbitant damages have been given, or that the Judge himself has misdirected the Jury, so that they found an unjustifiable verdict. For these and similar reasons, it is competent to the un-successful party to move that the verdict which has been given, be set aside and a new trial had.

Arrests of judgment arise from intrinsic cau-ses appearing on the face of the record—as if in an action for slanderous words, the Defendant denies the words and issue is joined thereon, if a verdict be found for the Plaintiff that the words were actually spoken, the fact is estab-lished; yet the Defendant may move in arrest of judgment, that the words are not in their na-ture actionable, and if the Court be of that opinion, judgment is arrested and reversed for the Plaintiff, and it is an invariable rule that whatever is alleged in arrest of judgment must be such matter as upon demurrer would have overturned the action. But the rule will not hold *e converso* that everything that may be alleged as cause of demurrer will be good in arrest of judgment; for merely formal objections which might have been sufficient ground of demurrer will be cured or aided by verdict—by it the facts are ascertained which before from the inaccuracy of the pleadings might be dubious.

The motion for judgment *non obstante veredicto* is also made by reason of some intrinsic ob-jection apparent on the face of record but differs in this particular from the motion in arrest of