you have heard and what you have seen, why it is all right, as you coincide with him; but the fact that a Judge has said so and so should have no more weight with you than the opinion of any other man, because he is not supposed to find on the facts; and you are not to consider what other juries have found. You are supposed to judge from the evidence. You are not to be bound by what other Judges have said or other juries have found; but if you happen to fall in line with them it is simply because you are convinced the same as they were. Therefore Judge Hanington's finding on the facts is no more binding on you than the expression of counsel. It may be an honest finding and an honest belief; but you are the men to find, from what you have heard and seen."

If this could be regarded as a withdrawal of the extracts in question from the consideration of the jury, there would be no ground for a new trial, even if the reading of the extracts was equivalent to an improper reception of evidence: Wilmot v. VanWart, 17 N. B. R. 456; Stewart v. Snowball, 19 N. B. R. 597; Catlin v. Barker, 11 Jur. 1105.

The learned Judge's remarks, however, can scarcely be so regarded; neither do they seem to have been so intended. So far from this being the case, he distinctly told the jury that the plaintiff's counsel was quite within his rights in what he did; but as to the effect of these judicial opinions, so far as they related to the facts, no more weight was to be attached to them than to the opinions of other men. The opinions of other men would not be admissible at all. The evil which is involved in such a practice and which in the proper administration of justice it is desirable to avoid, is that the influence of such judicial opinions naturally operates, or is likely to operate, in the minds of jurors in coming to a conclusion,—an evil which to my mind is by no means necessarily met by telling the jury that they are to act on their own views of the evidence and only accept the Judge's views so far as they agree with their own. There is, however, no hard and fast rule that there must be a new trial simply because improper evidence has been admitted. It is largely a question of degree, especially in a case like the present where the obvious object is to bring the notice and knowledge of jurors, expressions of opinions, statements or facts which are not admissible as evidence, but nevertheless carry their weight.