

pany hired out their taxicabs for immoral purposes as "traveling brothels" would in all probability create a prejudice in their minds against the defendant company and considering the prominence given to the supposed character of the women and the object of the parties in the two vehicles I doubt if that prejudice was removed by the learned Judge's instructions to them not to consider the suggested purposes of the defendant company in letting out their taxicabs.

Further, whilst perhaps all the women in the car and in the taxicab may have belonged to the same unfortunate class, still the jury (and juries are not always logical) with their attention frequently and pointedly called to the apparently immoral purposes of the two parties in those vehicles may have been more prejudiced against the defendant company whose taxicab was in use with their consent than against the plaintiff whose car was being used without his consent. In the weighing of the conflicting evidence the prejudice thus aroused may have been thrown into the scale and turned it against the defendant company.

Under the circumstances, it appears to me that the trial has not been satisfactory and that the defendant company has reasonable grounds for questioning its fairness, and therefore the Court in the exercise of its discretion should set aside the judgment and direct a new trial.

The costs of the former trial and of this appeal to be costs in the cause.

HON. MR. JUSTICE CLUTE, HON. MR. JUSTICE SUTHERLAND and HON. MR. JUSTICE LEITCH:—We agree.