

that the surgeon had ordered her to fill the "Kelly pad" upon which the unconscious patient was to lie, with *boiling* water. She did fill it with boiling instead of hot water, with the result which was to be expected. The patient sued the surgeon for damages; the defendant and other surgeons swore that the nurse had been told to fill the pad with hot water (not *boiling* water) and the trial judge believed them. My learned brother (the present Chief Justice of the Common Pleas) said, p. 329: "I have no manner of doubt that if the doctor had said to any experienced nurse that she was to fill that pad with boiling water it would have struck her as an extraordinary thing and one calling for some explanation. . . . It was a thing that could not have been done by Dr. B. unless through a slip of the tongue."

Of course, a surgeon could not shield himself from the result of an improper order. He has at the operating table no more right to make a slip of the tongue than a slip of the knife, and must guard against both equally.

But granted that an order is a real order of the medical man, a nurse is justified in obeying it unless it is plainly dangerous; and not being guilty of negligence herself she cannot by so acting render her employers liable for damages for her acting in accordance with such an order.

Here the facts do not bring the nurse into such a condition.

Where a patient is or has recently been under an anæsthetic, there is a standing order in all hospitals to keep the bed warm; "it is," says the Matron, "a standing order to warm the bed"; this is taught by "the doctors originally training the nurses." The nurse under whose charge the patient is, attends to the heating of the bed, and to the heating of bricks, if bricks are used for that purpose. It was the duty of the nurse "when she was told that she had charge of the room where the patient was . . . to see that the bed was properly warmed," and, "the doctor would not give her any direct order." Of course, if the doctor finds the bed not such as he thinks it should be, he may give such orders as he sees fit, and these orders must be obeyed; he does not ordinarily inspect the bed. As I have heard it said by a very eminent surgeon: "If I cannot trust my nurse I must give up surgery."

My learned brother at the trial put it quite accurately as follows:

"His Lordship: That narrows it to this extent, it is the duty of the nurse in the first place to do as suggested to her, in seeing that the bed is properly warmed for the patient, and then if the doctor comes in it may be his duty to see if it is over-heated or under-heated, and gives his directions in regard to that, but in the absence of any directions in regard to that, it stands that it is the nurse's duty."

There is much evidence, more or less loose, about this nurse being