

vested with the privilege of practising medicine, they have attaching thereto a responsibility both moral and legal, which no conscientious physician can for one moment wish to have devolved from him. As, however, the every-day care which a physician gives to his profession and the moral regard for his duties toward his patients are for him the measure of his responsibility, it must be evident that any physician worthy of the name can never, after having been granted a license to practice by the State, be forced by legal fears to exercise more caution, than he otherwise would, did no legal responsibility attach to his actions. Remembering these facts and the issue by the State of a legal right to practice medicine, the existence of conditions by which a physician, no matter how conscientious he may be in the performance of his duty, is liable to suits for damages from malpractice, seems not only an anomaly but a travesty of common sense and justice.

We can understand how a lawyer, should he cause loss through neglecting to draw up a lease or title properly, with the materials before him, should be required to make good such loss, or how a physician, through intemperance or other act, rendering him temporarily incompetent, thereby causing physical damages, or even loss of life, should be liable to severe punishment; but we fail to understand how a physician licensed to practice, thereby having his legal competency established, should have his actions made the subject of scrutiny before a court, where special pleaders endeavor to impress upon a jury of persons wholly unfitted to arrive at conclusions, based upon lines of reasoning neither understood nor appreciated by either pleader or jury. To illustrate we have only to refer to a case not many years ago, where the jury was asked several questions by the judge, he fearing that the florid declamation of a leading counsel had had undue influence. In reply to one, the foreman answered: "Because the doctor did not give the nurse proper instructions, and that he had not seen that *these* instructions had been carried out."

The facts regarding the recent action against Dr. Lesslie, an old and much respected physician of Hamilton, for causing the death of a man named Routh, of 60 years of age, through the administration of chloroform, have been fully retailed in the daily press; and they only too strongly indicate

the position which a physician may be placed in at the hands of any unscrupulous persons who themselves, or through the influence of evil-disposed persons, may be induced to think that they have suffered damages at his hands.

A physician is called in to assist a brother practitioner in an operation on hæmorrhoids, and after a general examination, decides that it is safe to operate under chloroform. The patient, who had no history of rheumatism, ceased breathing after six or eight minutes administration of the anæsthetic, and could not be resuscitated by all the usual and available methods of restoration, as lifting the thighs, drawing forward the tongue and giving nitrite of amyl. Such is the history of the case. The jury in the first trial disagreed, positive statements being made in favor of the prosecution, by a witness from Toronto, of one year's registration in Canada, and a somewhat mixed registration in Britain. A second and recent trial in March, fully exonerated Dr. Lesslie from the charge, after which it is found that the plaintiff is *nullum respondum* in the matter of costs, and Dr. Lesslie, after months of anxiety, worry and indirect loss, is called upon to pay the costs of the suit to the tune of \$1,000.

There can be no good reason for altering the general principle of the presumptive right of every person to seek redress for grievances through courts of law, but it is a manifest absurdity to suppose that not only must every uncalled for or dishonest suit be allowed to be brought against worthy and upright citizens, but that the same, after having been proved guilty of the charge should be made to pay for another's privilege. The injustice done to Dr. Lesslie has been so flagrant in the eyes of the physicians of Hamilton that a considerable sum of money has been raised as a testimonial of the estimation in which he is held by his professional brethren there, and arrangements have been made by a resolution adopted at the Toronto Medical Society, whereby members of the profession throughout the Province may join with those of Toronto and Hamilton, in increasing the amount of the testimonial to worthy proportions. Such as wish to subscribe, may address their contributions to any of the members of the committee appointed by the Medical Society: Dr. J. E. Graham, Dr. W. B. Nevitt, Dr. P. H. Bryce, or Dr. J. Davison.