

which rendered it fit and proper that she should be removed to an asylum; and it was revolting to one's sense of right that merely because the person had some strange or eccentric ideas therefore she was to be shut up for life. But that took place on the evening of the same day on which Dr. Forbes Winslow had written that it was "imperative" that this lady should be secured, when it did not appear that she had done a single act to render it necessary to shut her up. And then, upon these authorities so obtained, they attempted to take her; but she escaped, and from that day, the 13th April, 1878, to the present time in 1884—there had been no further attempt to confine her, though if at that time she was a dangerous lunatic it was their bounden duty to take proper measures for her protection. Yet ever since then, down to the present time, she had remained at large, mistress of her own liberty; and though she may have caused annoyance to some persons by bringing actions, she said that she was determined to bring her case before the public and endeavour to obtain redress, and nothing had been shown to justify any steps for shutting her up. Then came the question, Is there, upon these facts, anything that could be left to the jury to show that the libel was written maliciously—that is, from some bad motive, and that so it was not privileged, but was a false and malicious libel? It seemed to have been supposed at the trial that the truth was not material; but if the libel were false, that would be some evidence that it was malicious. Where the occasion is privileged, as the learned Judge at the trial held here, it is necessary to show malice, and falsehood may be evidence of it. Was there, then, evidence of malice? The Court held there was, and on that point they gave judgment that there must be a new trial. It was not the case of a medical man merely giving an honest opinion. The defendant was the registered proprietor of an asylum—the asylum to which the lady was to be sent. He was the person responsible for the management, and in whose care and custody the lady would be. All the facts and circumstances in the case were evidence of malice—that is, of some indirect motive. All these proceedings took

place upon the same day, on the Sunday. He had written that it was "imperative" that "immediate steps" should be taken to secure her. But what was the difference between the condition of the lady on that day and any other day during the previous five years? It was not any mere harmless delusion or eccentricity which required a person to be confined in an asylum. The question was whether in this case there was any sufficient cause for immediate removal to an asylum. All these circumstances were for the jury to consider. The learned Judge said he "could not suppose that Dr. Winslow would be actuated by sordid motives." But it was not for him to decide that; it was for the jury to decide it. Having regard for the position of Dr. Winslow and all the circumstances of the case, it was for the jury to decide whether he acted honestly or with some indirect motive. All the proceedings under the statutes must be conducted independently of any proprietor of an asylum. And if this case goes to a second trial (as, the Court said, if it depends on us, it will), the question will be open whether, under the circumstances, these orders and certificates were of any validity and any protection to anyone at all. That will have to be decided at the second trial; and it may be a very serious question whether the proprietor of any asylum can act in any way in the matter, and then set up the order and certificates so obtained. But on the other question, as to the libel, there can be no doubt there was evidence which ought to have been left to the jury that the libel was written maliciously in the legal sense—that is, from some indirect or improper motive, and therefore, in the opinion of the Court there must be a new trial.

THE LATE MR. J. P. BENJAMIN.

It is less than a year since we noticed the retirement of Mr. Benjamin from practice, owing to ill-health (6 L. N. 266). Now the cable despatches inform us of his death, which took place at his apartments in the Avenue Jena, Paris.

Mr. Benjamin was born in St. Croix, a Danish West India island, in 1811, of Eng-