

been unhinged. She had admitted that she had thought of putting her mother into an asylum, but had been deterred from taking any steps in the matter because she thought it would be cruel. This was just before Mrs. Neave had written those letters to the plaintiff when she had been at the asylum which had been read during the course of the case—letters which were clearly those of a well-bred intelligent lady, written with a view of soothing and pleasing her daughter. Had she believed that her mother's mind had been affected by the sulphuric ether? The learned judge hoped that she had, or otherwise it would have been a monstrous thing for her to have entertained the idea of sending her mother to an asylum. But he would assume that she had believed it, though there had not been the very slightest foundation for it. He approached another matter with great reluctance—that was, the very severe attack which the Attorney-General had thought fit to make upon Mrs. Neave, and also by implication upon Major Neave. They might possibly have been mistaken in the cause to which they had attributed the intolerable misery which the plaintiff had brought upon those living in her mother's house, as this might have been due only to her violent temper and ill-regulated disposition. But what interest could they have had in sending her to an asylum except to do her good? It was clear that her brother had let her go there most unwillingly, and had taken her away from it at the earliest possible moment. It was not suggested that Major Neave could not have induced his mother to have foreborne sending the plaintiff to the asylum at all, and therefore by implication he had been attacked as severely as his mother. Before the jury could condemn them, as the Attorney-General had invited them to do, they ought to consider what they would have done under the circumstances. Nor could it be fairly said that the authorities of the asylum had evinced any desire whatever to retain the plaintiff there for the purpose of getting gain from it. His lordship then called the attention of the jury more especially to the evidence given by Mr. Phillips, who, as he said, could have no possible interest in the case. He had satisfied himself that the plaintiff, both when at the asylum and in November, 1881, when she had gone to him at Whitehall, had been full of delusions. He had taken notes of what she had said to him

on the second occasion, which 'he had produced, and his evidence was worthy of the gravest consideration at the hands of the jury. His lordship then dealt with the question as to whether or not the defendant had been guilty of negligence, and on this point read passages from the judgment of Mr. Justice Crompton in the case of *Hall v. Semple* (3 F. and F. 356); among others this one: 'On the one hand it is of great importance that medical men should very carefully sign certificates of this kind, and that personal liberty should not be interfered with improperly by any abuse of the power which the law has intrusted to them; and, on the other hand, it is very important to the medical profession that if a person acts really *bona fide* under the authority of the Act by which these duties are assigned to him, he should not be made responsible for a mere error in judgment or mistake of facts. It is also very important in the interests of the public that persons who are really lunatics should be immediately taken care of. Very often it is a difficult and delicate matter to be decided upon, and we all know what lamentable mischief sometimes arises through lunatics not being put under restraint at the proper time. Again and again we see in the criminal courts what lamentable consequences ensue from even a few hours' delay. If the plaintiff's case was well founded, no doubt it would be a sad thing if there were no redress. And, on the other hand, it would be lamentable if, were no blame really attached to the medical man, he was to be ruined merely for having acted *bona fide* in the performance of the duty which the statute has imposed upon (or assigned to) him.' The simple question in the present case was whether or not the defendant had been guilty of culpable negligence in signing the certificate. If the jury were of opinion that there had been no proper examination by the defendant of the plaintiff's mental condition before he had signed it, the case would be clearly one for substantial damages. The questions for the jury would be—(1) Whether on July 12 and 13, 1881, the plaintiff had been of sound mind, and (2) whether, if she had been so, the defendant had been guilty of culpable negligence in certifying that she had not been. If they answered the first question in the negative, and the second in the affirmative, then they would have to assess the damages.—The foreman handed in the paper with the questions, from which it appeared that the jury answered both the questions in the negative.—Judgment was accordingly given for the defendant, but execution was stayed for fourteen days. If during that time the plaintiff lodged an appeal, then execution was further ordered to be stayed until that appeal had been disposed of by a Divisional Court.