

Plaintiff sued Dr. Ogden for breach of contract, asserting that the doctor promised to be at his house at three o'clock, and did not go for nearly two hours after, that in consequence thereof, his wife's labor was that much longer than it should have been, that the child was lost and insanity produced. Damages were laid at three thousand dollars.

Defendant swore that he did not promise as stated, and he showed by the evidence of Drs. Hodder, Workman, Nicol, Russell, Goikie, Agnew and Philbrick, that according to the plaintiff's own evidence, the labor was a very short and easy one, being only four or five hours long, that the prospects of both mother and child were not endangered by the absence of defendant, that he was present in full time to have rendered all necessary assistance if he had been allowed to do so, and that the subsequent insanity could hardly be chargeable to an unduly prolonged labor when the whole duration was less than five hours; and further that insanity was hereditary, and had evidently manifested itself during gestation, while a large proportion of the children in looting presentations were necessarily lost. Drs. Aikens, Wright, and Ross were in attendance to bear similar testimony, but defendant's counsel thought the evidence was so strong already they would not be required, and hence they were not called, but, notwithstanding the evidence, and the charge of His Lordship the Chief Justice, which appeared to be very strong in favor of defendant, the jury returned a verdict for plaintiff with five hundred dollars damages. The trial occupied two whole days.

Now we think it would be well for the profession to consider carefully the position in which they are placed by the verdict in this case.

In the first place Chief Justice Richards ruled that the ordinary promises of medical men, although generally supposed to depend upon contingencies, have all the force, character, and responsibility of written contracts, an interpretation of law we venture to say that few medical men ever dreamed of, while the counsel for plaintiff broadly asserted, without contradiction, that if a medical man was ten minutes late in keeping an appointment he would be liable for any suffering the patient might endure in the meantime. But the verdict in this case shows this principle of law in a more pernicious light still, for it proves that it is only