

scientific inference, and will take some pains to understand the system which they propose to criticise," or, rather, to investigate. Calm investigation, conducted in a scientific spirit, with scrupulous accuracy, and with parallel tables of disease in the school and the non-school workers, might then be carried out, and the results would be proportionately trustworthy, and would command the assent of the public.

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*Weldon v. Winslow.*

We refrain from offering any comment upon this trial, as it is understood that the defendant will appeal against the verdict. It is important, however, to place on record the substance of the summing up of the Judge (Mr. Justice Denman) so far as it relates to his laying down of the law, and his instructions to the jury.

QUEEN'S BENCH DIVISION OF THE HIGH COURT OF JUSTICE.

Nov. 28 and 29, 1884.

(Before Mr. Justice DENMAN and a Special Jury.)

Mr. Justice Denman, in summing up, directed the jury that all the issues raised would for the purpose of the day be ruled by whether the jury believed that the defendant had or not in the course of what he had done been actuated by some improper motive and had not acted honestly and *bonâ fide* in the performance of a duty. The burden was upon the plaintiff to prove affirmatively that the defendant had been actuated by some improper motive, or, in other words, that there was malice. There were three substantial questions which the jury would have to decide. Was the letter of the 14th of April a libel? That was, was it written in the honest and *bonâ fide* belief that Mrs. Weldon was a person in whose case proceedings ought to be taken of the character that were taken in reference to her confinement, or to supervision, or restraint of some sort; or was it written regardless of the real merits of the case as to that, and from some bye or sinister motive, such as to get her into an asylum in order to gratify the husband, or for gain or profit? Secondly, as to the letter that was published by the defendant in the "British Medical Journal," was that written in self-defence, or with the intention of further libelling the plaintiff, by calling her an insane person, with the knowledge that she was not that sort of person? And, thirdly, was the assault which was committed with the assent of Dr. Winslow when he sent persons to arrest the plaintiff committed in the *bonâ fide* belief that there was good ground for taking her to an asylum, or was it a case in which the

defendant, not honestly believing this, was anxious that she should be confined from some improper motive? These were the issues which the jury would have to decide. In case they should find for the plaintiff, he would say a word or two upon the question of damages. In a case involving malice of any sort the question of damages was one that was very much at large for the consideration of the jury. They were entitled to consider the amount of malice, the sort of malice, and the conduct of the party who charged the defendant with malice, and how far the conduct of that party might have induced the defendant to take an unfavourable view of the case; how near it was to a *bonâ fide* belief, and how far it was from a *bonâ fide* belief; everything was for the jury, and should be taken into account in case they should give a verdict for the plaintiff. There would be a disadvantage in running riot as to damages; and he was sure that the jury would not do that unless they felt that the case was one in which on public grounds they should mark their very strong sense of the wrong that was done. Their verdict must not be influenced in any way by their dislike of the lunacy laws, which gave very large powers to doctors, for it would be highly unjust to visit any individual with additional damages merely in order to express an opinion that the law should be altered. This would be very wrong indeed, and he did not think for a moment that the jury would act in that way. If the defendant had been actuated by no sinister motive, then the verdict would be for him; but if there had been an improper attempt to carry this lady into an asylum, then, of course, there must be damages for the plaintiff, and very considerable damages.

The jury said that they found a verdict for the defendant in reference to the alleged libel in the letter of the 14th April, 1878. In reference to the libel of the 8th January, 1879, in the "British Medical Journal," they found for the plaintiff, upon the ground that in it the defendant justified the proceedings taken against the plaintiff, including the assault made upon her with a view to her confinement, when from the information at his command he had ample opportunity of discovering that he was wrong. Upon this part of the case they assessed nominal damages. As to the assault, they found for the plaintiff, upon the ground that the defendant allowed himself to be unduly influenced by other motives than the interests of justice. Upon this they assessed the damages at £500.

Mr. Justice Denman upon this finding said that he should give judgment for the plaintiff, damages £500, and one shilling; but upon the application of the defendant, he said that he would stay execution.

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