Dowling v. *Dods.*

This case, the trial of which was reported in the last number of the JOURNAL, has had a very satisfactory ending. It will be remembered that Mr. Dods gave notice to the relieving officer that Miss Dowling was insane, stating the grounds of his opinion, and stating further that if she, in her then state of mind, acted as a dispenser, she would be a danger to the community. On this notice, or certificate, as it was called, Miss Dowling sued Mr. Dods for libel, and gained damages £100. Mr. Dods, however, appealed, and applied for judgment or for a new trial, on the ground that the verdict was against the weight of the evidence, and that there being no evidence of malice the judge of first instance ought not to have left the case to the jury. The text of the decision of the Court will be found in another column, and it could not have been more satisfactory to Mr. Dods than it was. The Court found, in the first place, that the occasion was privileged, and that there was no evidence of malice to withdraw the privilege, so that the plaintiff had no case. But even if the occasion had not been privileged their lordships were of opinion that the verdict was against the weight of the evidence. The jury had found that part of the letter was true and part untrue, and that the justification which the defendant pleaded was not true. But the Court of Appeal considered such a finding was so inconsistent with the evidence that had the defendant not already succeeded upon the ground of privilege they should have sent the case down to be re-tried on the ground that there was no evidence at all upon which the jury could fairly find that the justification was not true.

The victory of the defendant is therefore complete, but it has been gained at a heavy cost, both of money and of anxiety. It is hard to see how this cost could have been avoided. The liberty of the subject to bring an action at law, if he considers that he is aggrieved, will not be and ought not to be materially abridged. It should not be forgotten that the Legislature has embodied in the Lunacy Act, 1890, a very important provision for the protection of those who act under its powers. Section 330, sub-section 2, provides that "if any proceedings are taken against any person for . . . doing anything in pursuance of this Act, such proceedings may, upon summary application to the High

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Court or a judge thereof, be stayed . . . if the Court or judge is satisfied that there is no reasonable ground for alleging want of faith or reasonable care." We do not know whether any application under this sub-section was made by Mr. Dods, but it seems most likely that if such an application had come before either of the judges who formed the Court of Appeal that decided in Mr. Dods' favour, they would have stayed the action. It is unfortunate that the first case in which such an application was made was unsuccessful, although all the circumstances appeared to be in its favour; and this experience has probably deterred counsel from advising that such a course should be taken in subsequent cases. But it would seem well worth while to test it again in cases such as Dowling *v.* Dods.

The Prosecution of Dr. Hutton.

On August 16th, Dr. Hutton, of Harringay Gardens, Tottenham, appeared before Sir F. Lushington to answer five summonses, charging him with ill-treating and neglecting, etc., a lunatic.

The facts of the case, as laid before the magistrate by Mr. Bodkin, were shortly as follows:—The lunatic was the defendant's own brother, and thirty-six years of age. He was a congenital idiot incapable of speech. In 1892, by order of a Master in Lunacy, his property was invested, and the income of between £80 and £90 was paid to the patient's mother for his benefit. She, being unwilling that her son should go to an institution, handed him and his income over to her other son, the defendant. Until six months ago the patient lived in the house with his brother, but then, on account of his habits, the following change took place. The defendant's coachman was sent to lodgings, and a bedroom for the patient was made out of the harness room. Between the latter and the party fence of the garden, a space of six feet by four feet was partitioned off, and in this space the patient was confined from morning till evening. The door was fastened on the outside, and there was a seat at one end partially covered from the rain. There was no other protection from the heat or rain. The police having heard of this state of affairs made inquiries, just at the

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