their promotion is slow. 4. That they are in a position of excessive subordination and serfdom. Drs. Conolly Norman, Goodall, and Lloyd Andriezen discussed the subject, but no conclusion was arrived at.

Drs. Shuttleworth and Fletcher Beach read papers on points connected with the education of feeble-minded children, and the defects and diseases of school children. Drs. Wiglesworth and Mickle made remarks, and Dr. Shuttleworth replied.

Dr. Lionel A. Weatherly and Dr. Mercier each contributed a paper on "The Law in Relation to the Criminal Responsibility of the Insane." These papers and the discussion which followed were a distinct feature in the work of the section. The subject was one of great interest to members of the Association connected with the care and treatment of the insane, and in order that everything that could be said on the purely legal side of the question should be heard several men of light and leading in the law were invited and were present to take part in the discussion.

Dr. Weatherly is to be congratulated upon the clear, forcible, and yet moderate manner in which he laid the subject before the meeting, going back to the year 1843, when the judges gave their celebrated answers to the House of Lords in McNaghten's case, and comparing the dicta of the judges at that time with the judicial opinions of recent date, he showed that in the light of the advance of knowledge and experience in mental diseases the time had arrived when the dicta of 1843 should be reconsidered and modified. Dr. Mercier supplemented Dr. Weatherly's paper with observations upon "How the Law came to be as it is," and "The Objections to the Present Law." Mr. Pitt-Lewis, Q.C., M.P., in a speech of some length, concluded by suggesting that members of the Association should rather look to the Court for Consideration of Crown Cases Reserved for reform than to the Legislature, and that a more liberal interpretation of the word "*know*" would give it a wider meaning in harmony with the law of Scotland. Sir Frederick Bateman, Mr. Ernest Hart, Mr. C. H. Cross, Dr. Savage, Mr. Goodwin Norris, Dr. R. H. Noot, and Dr. Batty Tuke also joined in the discussion, and the following resolution was passed unanimously:—"That in the opinion of this meeting the present law relating to the defence of insanity in criminal cases as laid down by the judges in 1843 is not in accord with modern mental science, and should be reconsidered." Then another resolution was passed, also unanimously:—"That a committee be nominated to confer with the Parliamentary Bills Committee of this Association and with the Committee appointed by the Medico-Psychological Association to consider the best method of obtaining the earliest possible action of the House of Lords or any other means as they deem advisable, and that the following be appointed members of the Committee:—Drs. Orange, Nicolson, Conolly Norman, Blandford, Savage, Ernest Hart, Weatherly, and Mercier." (See p. 164.)

IN THE SUPREME COURT OF JUDICATURE.—COURT OF APPEAL.

ROYAL COURTS OF JUSTICE.—MONDAY, 18TH JUNE, 1894.

Before the Master of the Rolls, Lord Justice Kay, and Lord Justice A. L. Smith.

WILLIAMS v. BEAUMONT AND DUKE.—JUDGMENT.*

The Master of the Rolls—In this case the plaintiff has brought an action against two medical men, and the form of the action is trespass, or false imprisonment, or anything you like, but the real cause of action is that they had given a certificate that he was a lunatic, the consequence of which was that he was detained in a lunatic asylum. In giving that certificate that he was a

* [In accordance with the intention expressed at the conclusion of the Report of the trial of Williams *v.* Beaumont and Duke, we now insert the official Report of the judgment.—ED. J.M.S

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person who ought to be removed to a lunatic asylum it cannot be doubted that they were acting in pursuance of the Lunacy Act, 1890. That Act says that for anything done in pursuance of this Act they shall not be liable to any civil or criminal proceedings, either on the ground of want of jurisdiction or any other ground, if such person has acted in good faith and with reasonable care. So that the medical men in the position of these two defendants are not to have a case tried against them upon an assertion that their opinion given as medical men was wrong, so that they may have to enter into a contest as to their opinion with the opinion of other medical men. They are not to enter into a contest under which a jury, or the tribunal which has to determine the case, is to say whether their opinion was right or wrong, because assuming it to be wrong, still they are not to be liable to any civil or criminal proceedings if they acted in good faith and with reasonable care. That is the whole of the law. Now that was only a defence to the action before this section of this Act of Parliament was passed. They must have submitted to meet the action; they must have pleaded to that action that they had acted in good faith and with reasonable care. But the Act goes further than that, and gives them a further protection. If they did that in such an action the jury would be bound to find, or the Judge to direct, judgment in their favour; but this Act goes further, and says that under certain circumstances they shall not be put to that trouble, annoyance, and expense, because it says "If any proceedings are taken against any person for signing or carrying out or doing any act with a view to sign or carry out any such order, report, or certificate"—and that is really the ground of action in this case, for the plaintiff has no cause of action at all unless it was that by reason of that certificate he was sent to a lunatic asylum; that is his ground of action; he has no other; but "If any proceedings are taken against them for the signing of such a certificate such proceedings"—that is the action here—"may, upon summary application to the High Court or a Judge thereof, be stayed upon such terms as to costs or otherwise as the Court or Judge may think fit, if the Court or Judge is satisfied that there is no reasonable ground for alleging"—what? not "no reasonable ground for alleging they were mistaken," but "for alleging want of good faith or reasonable care"—that is to be done by summary process. Now this case falls clearly within the section, where the real cause of action is for their signing that certificate. First of all if it went to trial, and they could prove that they acted in good faith and with reasonable care, the action could not be maintained against them. But, secondly, they have this further protection, that if they can satisfy a Judge, or the Court, that there is no reasonable ground for alleging want of good faith or reasonable care, then that Court or Judge may stay the action. Here the case having been before a Judge at Chambers he declined to stay. It came by appeal before the Divisional Court, and they have stayed the action. They have stayed the action because they were satisfied that there was no reasonable ground for alleging want of good faith or reasonable care. The Divisional Court were satisfied there was no ground for it. Now there is an appeal to us. What is the question before us on the appeal? The question before us, and the only question, is "Can we differ from those Judges when they said that they were satisfied?" If we do we can overrule their decision; if we do not we cannot overrule their decision. What is the state of the case? Here is a man who (I do not see that there is any doubt about it) sometimes did have a drunken bout, which lasted for a time. Then the doctors first of all have come to the conclusion that when men do have those drunken bouts it is not uncommon that for a certain time afterwards they are insane. One of the forms which that insanity takes is that of melancholia, a well-known form of insanity. Sometimes I suppose it takes the form of raging madness, which is a different thing. This took the form of melancholia. What is one of the most ordinary results of people suffering under melancholia? Why, that they should have an inclination to commit suicide. That is well known. Now the man was

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brought before Dr. Beaumont. Dr. Beaumont examined him, and it is not denied he examined him for a long time—for an hour and a quarter. He says that he took such means as are in a doctor's power of inquiring as to the state of his physical health and as to the state of his mental health. I suppose he asked him questions, and he talked and spoke with him. The doctor came to the opinion that the man's conversation was rambling. The man says, "Oh, no, I did not ramble; I was only so weak that I took a long time to say what I had to say"—about as like rambling as could well be—he was rambling in his talk. But that is not what the doctor acted upon. The man said to the doctor that he was depressed after these drinking bouts, and that he had an inclination in his mind to commit suicide. If a man says that, and if the doctor then found that he was, according to his symptoms, suffering from melancholia after a drinking bout, what was the doctor to do? It is said that the doctor ought to make inquiries. Sometimes he ought, but if the case is so clear to a doctor that he does not want to make inquiries there is no law which says that he is to make inquiries as a matter of course when he is satisfied. Here the doctor did take the precaution of making inquiries. The man said that he had been living with his sister-in-law. Well, the doctor sends for the sister-in-law. She appears, and she appears to be a respectable woman; she appears to be a kind-hearted woman, to have kindly feelings towards him. She says he had lived with her from February to October, which is a fact not denied. It certainly is a symptom of extreme kindness on her part. She says, "Yes, when he is sober he is a sane man, and he does nothing wrong; but when he gets drunk, and after he recovers from a drunken fit, then he has had whilst he was with me this same sort of thing. He has threatened to commit suicide." I do not comment on what he had threatened to do to her. She says, "He had strange ways, and had become so disagreeable that in October I decided I could not keep him in my house any longer." She seems to have had children—daughters, and therefore she could not keep him in her house. She told that to the doctor. The doctor having seen her believed her, and why should not he believe her? Then you have it that he believed that which was stated by her, and he heard that which was stated by the man, and he examined the man, and upon those facts he came to the conclusion that the man was, at all events for the time, insane, and might do himself a mischief. Then he says, "I thought it was my duty under those circumstances" to do what?—not to keep him in the workhouse where there were no sufficient means of dealing with such persons, but to send him to a lunatic asylum, where they have the means of treating him, and where, when they have treated him and they feel it safe to let him go, then they will let him go. Now this man says that the doctors of the workhouse were malicious; they had a spite against him. "My sister-in-law who has told them things is a woman they ought not to believe; she is a woman without credit; she is a woman who has committed misdemeanours;" he does not say when or where or how. He finds fault with the workhouse. I do not know anything about the workhouse; that was not the doctors. He says all these things. But this case has been inquired into for twelve days. The doctors have had to run the gauntlet of that inquiry. That inquiry has been held, and the result of that inquiry is an absolute statement by the person who inquired into the matter—an impartial person, at all events, after all the evidence on both sides has been put before him, has come to the conclusion that these doctors did act with good faith, and acted with reasonable care. Now all these facts are put before the judges in the Divisional Court—what the doctor says this man said to him, what the sister-in-law said of him, the doctor's own statement of what they did and the examination they made of him—Dr. Beaumont not acting solely on his own view, but calling in his superior officer, Dr. Duke—they two, after consulting together, coming to this conclusion, there being no possibility of suggesting to anyone's mind that they were not acting otherwise than in good faith; you have two doctors whose skill, generally speaking, is not impugned, after consultation coming to that conclusion you have an

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inquiry (for that is before the case came before the judges) which has lasted twelve days, in which the impartial moderator, or tribunal, or whatever you please to call it, has come to the conclusion that the doctors did act with good faith, and that they acted with reasonable care. Can we say after that that he was wrong, and can we say when the man desires to go on with an action upon the very same ground, and to try this case all over again, that the judges were wrong when they say they were satisfied that there was no ground now, at all events, for his persisting in saying that these doctors acted without good faith, or that they acted without reasonable care? So far from disagreeing with them, I think that no person who hears an impartial statement of that state of things so put before the Divisional Court but must come to the same conclusion that this is only obstinate persistence by an obstinate man who seems to have for years found fault with everybody and everything, with everybody who had anything to do with him, for he must be satisfied that he has no ground for persisting in these charges, and that therefore the learned judges rightly stayed the action. This appeal must be dismissed.

Lord Justice Kay—I entirely agree. I think the learned counsel has done everything which could be done for his client, and has argued this case with great ingenuity and certainly with a very considerable amount of courage; because, if it were not that Mr. Justice Kennedy in Chambers had come to a different conclusion, I should certainly say that upon the facts as they are now made clear to us, no one could reasonably doubt that these two doctors whose conduct is impugned have acted with good faith and reasonable care. Counsel was careful to say that he did not impugn their good faith, and that the only thing which he now complained of was that they had not acted with reasonable care. Now the very short outline of the facts which it is necessary to refer to now is this. In February this man, whose occupation seems to be that of a journalist, getting casual employment on newspapers from time to time, was living with his sister-in-law, who says that she kept him from that time down to the 12th of October. During that time his conduct was so strange, and from time to time he gave way to his propensity for drinking to such an extent that at last she was obliged to refuse to keep him in her house any longer. He then roamed about the streets for three days, during which time he himself says he got little or no food; but he did get a certain amount of liquor to drink, and then he applied to be admitted to the casual ward of Lewisham Workhouse on the 16th of October. On that day he was seen by the medical officer, Dr. Beaumont, and I read, really with the most perfect belief in the statement, what Dr. Beaumont says. He says, "I was struck by his dejected, haggard appearance, and I proceeded to make a careful examination both physically and mentally. In the course of long rambling speeches he told me the idea of self-destruction continually haunted him, and that his sister-in-law, Mrs. Rebecca Williams, was his only friend, and asked me for permission for her to visit him, which permission I forthwith gave. At the time of such examination he displayed very many of the symptoms of melancholia supervening on long-continued alcoholism. On the same 16th day of October, 1893, I had a long interview with the said Mrs. Rebecca Williams, who informed me that the plaintiff had resided with and been kept by her from February until the 12th day of October, 1893" (that is the same month of October when this examination took place), "when she was compelled to refuse to allow him longer to remain in her house owing to his extraordinary and irrational behaviour. She further gave me information as to instances of unreasoning and unprovoked violence towards herself and her daughters, of threats of suicide and other acts which could not in my opinion be other than the outcome of a disordered mind." Then he goes on to say that she spoke very affectionately of him, and he formed the opinion from seeing her that she was a most respectable person and was actuated by kind feelings towards her brother-in-law. There is an answer to that, of which I will read a short paragraph. "When the defendant examined me on the 16th October, 1893, in the receiving ward of the workhouse, I was suffering from exhaustion

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and physical weakness caused by want of food and by exposure. I informed the defendant that I had been sleeping in the open-air for three nights, and that I had previously had rheumatic fever, and that I feared it was coming on again. I informed him that I had had no food except a biscuit and a piece of cheese for two whole days. He examined me in the receiving ward, having two sheets of foolscap paper in his hand taking notes," and so on. Now, putting all those facts together, what is the clear result, even stopping there, if that were all? Here is the medical officer who sees a man in a state of utter exhaustion, very haggard, depressed to the last degree for want of food and from the result of reaction after drinking, and which man tells him, to use his own words, that the idea of self-destruction continually haunts him. It is said that he asked to be allowed to see his sister-in-law, and he sent a note to the sister-in-law, and the sister-in-law came the very same day. The medical man sees the sister-in-law, and she confirms exactly the opinion he had formed himself. She tells him that this man had threatened self-destruction while he was living with her between February and October. What was the medical officer of the workhouse to do under these circumstances? What he did was this: he called in his superior officer, Dr. Duke, he told him all he knew, and Dr. Duke himself examined this man for a quarter of an hour on the same 16th of October. They saw him again and again between that date and the 18th, when he left the workhouse, and, looking to the circumstances, they came to the conclusion that there was danger of his destroying himself. They took what seems to me to be the only possible course for them to take under the circumstances. There was not proper accommodation at that workhouse for a lunatic, and under the 24th Section of the Lunacy Act, 1890, their duty then was to have him sent away to a proper lunatic asylum, which they did. They called in a magistrate, the magistrate saw him, he had the account from Dr. Beaumont of Dr. Beaumont's investigation of his case, and he signed the necessary order for the removal of the man to a lunatic asylum, stating in the answers to the proper inquiries, which are put in the form required by the Act, that he was suffering from unsoundness of mind produced by alcoholism, and which took the form of suicidal tendencies. Under that certificate he was sent to the lunatic asylum. Well, by this time, I suppose, under the treatment he had received in the workhouse, he was getting somewhat better, and when he was examined at the lunatic asylum the doctors there did not find any trace of unsoundness of mind, and as soon as the rules of the institution would permit he was discharged from the asylum. He now brings this action against the two medical officers of the workhouse, and the broad answer is, "What on earth did these doctors do but that which they must do?" Just suppose that they had not taken the precaution of sending him away from the workhouse to a lunatic asylum, where he could have his case properly investigated and, if necessary, be cared for as a lunatic, and suppose the man had fulfilled his threat of committing suicide. Upon whom would the blame have been thrown—and would it not have been justly thrown—but upon those two medical men whose duty it was to take every precaution which the law enabled them to take to prevent his carrying out that threat? I do not see that they could take any course but that which they did take. Now, there was an inquiry before a medical man, Dr. Downes, an inspector appointed by the Local Government Board, into the whole circumstances attendant upon the certifying the plaintiff as a lunatic and his removal to the asylum. On that inquiry Mrs Rebecca Williams was among the witnesses summoned, and Mrs. Williams, giving evidence—the effect of which is stated in one of these affidavits—as to the condition of her brother-in-law, says that when he was not excited with drink or suffering from melancholia from the results of a drinking bout, he was very kind and well-behaved, and perfectly sane; but that when he was under the influence of drink he behaved in such a manner that she could not keep him in her house any longer. She does not deny, and she is not asked, as far as this evidence goes, whether or not it was true that he had threatened to commit suicide while he was staying with her

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She does not seem to deny that in this evidence, and it is beyond all question that they could not deny that he had made these threats while he was living with Mrs. Williams. That confirms the statement of the doctor as to what Mrs. Williams said to him, and which, of course, confirmed the belief to which Dr. Beaumont, the doctor in the workhouse, came from hearing the rambling talking of this man himself, in which he spoke of the idea of suicide continually haunting him. It seems to me that it is clear the doctors did that which it was their absolute duty to do, and that they acted with all reasonable care in this matter. They are not now impugned with any want of good faith. I see in the plaintiff's affidavit put in in this matter there is some suggestion of want of good faith on the part of the doctors. Counsel, however, very properly drops that entirely, and now we have to consider whether this is not an action which ought to be stayed. It is an action brought by a man in a condition of utter pauperism against two doctors occupying a position which, of course, is of the greatest possible value to them—a man who could not pay the costs if this action fails, and the question is whether this is not a most proper case to be dealt with under this Section 330 of the Lunacy Act, which provides that, "If any proceedings are taken against any person for signing or carrying out, or doing any act with a view to sign or carry out any such order, report, or certificate, or presenting any such petition as in the preceding sub-section mentioned" (all of which are proceedings for the purpose of getting a person admitted to a lunatic asylum), then "such proceedings may, upon summary application to the High Court, or a judge thereof, be stayed upon such terms, as to costs or otherwise, as the Court or judge may think fit, if the Court or judge is satisfied that there is no reasonable ground for alleging want of good faith or reasonable care." Are we to let this action go on by a pauper against two medical men—against their character there is not the slightest ground for suggesting anything whatever—when it is plain that if the action fails the plaintiff will not be able to pay a penny of the costs, and when the evidence before us is such as I have described, which satisfies me completely that there was no want either of good faith or reasonable care. The answer is, this is the very case to which this section of the Act was directed—the very sort of thing—a case in which the action ought to be stayed by summary order. I confess I think that the Divisional Court was perfectly right in the order which they made, and that this appeal ought to be dismissed.

Lord Justice A. L. Smith—I only wish to add one word on account of the difficulty which Mr. Justice Kennedy got himself into by looking at the different causes of action which are supposed to be set out in this statement of claim. It seems to me it is immaterial what the plaintiff sets out in the statement of claim, whether he alleges trespass, breach of duty, or what not. Of course the judge will read the statement of claim, but in my opinion it is his duty to see what is the substance of the cause of action which a man has against the defendant before him, and if he comes to the conclusion that the action is a proceeding taken against a doctor for something done in pursuance of the Act, and not for something done outside the Act, then it is his duty to adjudicate whether there is reasonable ground for alleging want of good faith or reasonable care. I think my brother Kennedy got into that difficulty, and probably reading from what Mr. Justice Henn Collins says in the Divisional Court, that Court came to the same conclusion as I have, that if my brother Kennedy had not hampered himself with reading the statement of claim, and then thinking it was a common law action which he could not deal with under this section, he would not have gone wrong.

The Master of the Rolls—The appeal is dismissed with costs.

Mr. Herbert Smith (instructed by Mr. Curtis) was counsel for the appellant; and Mr. H. D. Greene, Q.C., M.P., and Mr. Dodd (instructed by Mr. Savage) appeared for the respondents.

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