

attributes this partial dislocation to her having fallen asleep and turned over. The three medical experts called by the defence agree in saying that there was very grave danger in a box splint if the patient relaxed the bandages; that it would be impossible to say that there was no disturbance, even if the patient lay perfectly still; that there would be room for spasmodic action of the muscles which might occur involuntarily or during sleep, and which might be attended with grave results; that it would not be possible, even with an effort, to keep the limb rigid for more than a minute or two; and, moreover, that the result of this disturbance might not be discernible until after the patient began to use the foot, when a gradual inversion of the foot might be looked for as the patient commenced to walk.

I am asked to disbelieve the statement of Dr. Windell, upon the mere ground that while he is not a defendant in the case, his professional reputation is at stake. I find myself unable to do this, especially as his evidence is strongly corroborated. The plaintiff admits having gone to sleep once, while the bandage was loosened; this, however, was after the leg was placed in the plaster of paris splint and cut open on the 12th June; but Mrs. Asling, an apparently independent and creditable witness, says that she went in one time and the bandage was loose, and the plaintiff was working at the cotton batting, and witness asked plaintiff not to do it, and cited the case of a relative of her own whose tampering with bandages had been attended with disastrous results. Witness saw it loose on one other occasion afterwards. Both these times were while it was in the box splint; it was unbound when the witness came in and she helped the plaintiff to do it up. She says Mrs. Gibson was there on that last occasion. Mrs. Asling also says that she saw the plaster of paris bandages taken off and the leg laid bare, and the plaintiff wanted the witness to get it done up in a hurry before Mrs. Baird, plaintiff's daughter, should come in. Mrs. Gibson corroborates this statement, saying that she was at the plaintiff's house with Mrs. Asling one evening that the bandage was loose, and it was bound up while she was there. As far as she can remember it was while in the box splint; it was right out of the splint and that they replaced it in the splint and bound it up in the bandages.

If this evidence were much less clear and convincing than it is, in other words if the case were much more evenly balanced, I should feel obliged to give the defendants the benefit of the doubt; but, as I have indicated before I am decidedly of opinion that the plaintiff has failed to make out a case of negligent malpractice, and that the action must be dismissed.

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