

## ORIGINAL CONTRIBUTIONS

## A HOSPITAL'S LIABILITY FOR THE NEGLIGENCE OF A NURSE.

THE case of *Levere v. The Smith's Falls Public Hospital*, decided during the present month (December, 1915) by the Appellate Division of the Supreme Court of Ontario—the highest court in the Province—is of such importance to hospitals that we have obtained copies of the judgment.

The court was composed of the Chief Justice of the King's Bench, (Sir Glenholme Falconbridge) and Riddell, Latchford and Kelly, JJ.

The decision was unanimous in the result, each of the judges gave his reasons in writing; and as the written reasons of Mr. Justice Riddell include all that is contained in the others we shall here give an outline of that judgment.

Riddell, J. "The Smith's Falls Public Hospital is an incorporated body conducting a public hospital in the town of Smith's Falls; there are no shareholders or capital stock, and the institution is conducted not for private profit but simply as a public charity and for the benefit of the community—a most admirable and commendable object.

The plaintiff, Mrs. Levere, suffering from *prolapsus uteri*, was advised by her physician, Dr. G., to go into the hospital and be operated upon. She accordingly went to the hospital of the defendants and selected her room, agreeing to pay \$9.00 a week, "to include her board and attendance and nursing."

She was operated on (successfully) under an anæsthetic by Dr. G., Dr. F. assisting; and then she was taken to her own selected room and put to bed, still unconscious. On recovering consciousness, she felt a severe pain in her right foot; and on the surgeon being sent for, he discovered a serious burn on her right heel about the size of a fifty-cent piece; a blister had formed. Dr. R. thinks the burn must have been at least a quarter of an inch in depth. The plaintiff was treated properly and she left the hospital at the end of seven weeks with the burn about healed; but she still has a scar at the locus of about an inch by an inch and a half. This is not only painful, but also disabling; there does not seem to be much hope of improvement unless an operation be performed, and the result of such an operation is doubtful.

She brought an action against the hospital, which was tried before Mr. Justice Britton at Brockville, May 26th, 1915; the learned judge decided in favor of the defendants (34 O.L.R. 206), and the plaintiff now appeals.