

cumstances, the treatment of the thumb so as to bring it back if possible to its normal condition. He thought that the necessity for an operation might be avoided by a massage treatment. Dr. Sheppard, Dr. Bell, and I think most of the surgeons with the exception of Dr. King, say that while that condition of the thumb existed it would be improper to perform an operation, and Dr. Bell pointed out that one of the serious objections to operating at that time was the probable existence of micro-organisms, and if the operation was conducted while these were in existence in the hand, that it might result disastrously to the patient. He considered that the hand should be thoroughly healed before an operation was attempted, and I find from the evidence before me that that would have been the proper course to pursue. Now the healing was effected by the last of December, or first of January, and the doctor thought that by constant massage the necessity for an operation might be obviated. The mother of the boy says that the defendant endeavored to move the thumb and did move it slightly; that the motion caused pain, but notwithstanding that, Dr. Conerty thought that by continuous use of the massage treatment the thumb would come all right and a perfect cure effected within six to twelve months time at the latest. On the 4th of October, 1896, the doctor removed the splints, and he saw the boy again three days afterwards on the 7th of the month. Between the 7th of October and the 16th of November, although he had been asking the mother of the boy to bring him every day, or every other day, to his surgery, she had neglected to carry out his instructions. After that he only saw the boy twice during December, on the 2nd and the 7th, and then in January he saw him five times, on the 16th, 17th, 20th, 28th and 30th, and four times between the 2nd and 9th of February. He saw nothing of the boy at all until June, when he supplied him with a plaster cast for use on his hand. The cast was produced here, and from its appearance, if the boy had been using it, the thumb would when placed in the cast be some distance from the index finger, and he (the boy) said he had been using it from time to time until he brought it back to the doctor's office in August and left it there, stating to the person in attendance that he used it as a paddle when he was out swimming.

Now, having regard to the treatment Dr. Conerty had prescribed, which as he told Mrs. Kempfer could only be carried out by the boy being brought to his surgery for treatment, one cannot say that the present condition of the thumb is owing to any want of skill on the doctor's part. Whatever neglect there was, was not his neglect, and from the evidence of Mrs. Kempfer herself it is quite apparent that the doctor was finding fault with her for not making the boy keep his appointments