

The mother refused to allow the bones to be severed, and the doctor tried to reduce the angle by a proper splint, but failed, as the adhesion was too firm. He advised an operation in the hospital; and there is a good deal of dispute as to the attitude of the different parties; but nothing turns upon this, as in the end the child was taken to the Kingston Hospital, and was there operated upon, very skillfully, by Dr. Anglin. The bone was separated where the improper union had formed; the broken ends were successfully united; and, after some weeks, the child was returned to its mother with the leg in an entirely satisfactory condition.

Save in respect to one matter, everything that has been suggested against Dr. Stratton is entirely without foundation; and, although the child is not now in a satisfactory condition, the defendant is in no way to blame for anything that took place after the child was taken to the hospital and placed in charge of the doctors there.

Doctor Anglin was a witness at the trial, and had not seen the child from the time it was discharged from the hospital early in April until the day of the trial. At the trial he examined the child, and found that, owing to the failure of the mother to obey his instructions and prevent the child standing upon the injured limb, most of the benefit of the operation had been lost; and the leg is now almost as crooked as before the operation at the hospital.

There is no doubt that on the 7th January the leg was in very bad shape, and that the condition of the bones then resulted in a shortening of over two inches. The question is as to the cause of this condition and the responsibility for it. On the 22nd December, the healing had undoubtedly reached a critical stage. The bone would not then have knit by the formation of any new bony structure, or, at most, the bony structure would have been of a very fragile nature; at the same time, the bone would have then united by the formation of callous or cartilaginous material; and, unless displaced by some misadventure, there was no reason why the healing should not satisfactorily progress.

At the hearing it was suggested that the mother must herself have loosened the splints or taken off the weight at some time between the 22nd December and the 7th January. She denies this. The husband denies it also, although he was not present more than a small portion of the time; and the child also denies it. Although I have grave suspicion, I do not think that, in the face of these denials, I can find in favour of this contention,