

The condition of the plaintiff, who is a woman of sixty years of age, at the time of the trial, is fully set out in the report of the surgeon appointed by order of the Court to make a physical examination. It is as follows;

"Report of Physical Examination of Mrs. Narcissa A. Town, of Saintfield, Ont.:

"She states that she sustained an injury of the left ankle on May 17th, 1899. Examination by order of the Court September 28th, 1901. Condition on examination:

"Length of tibia, same on both sides.

"Length of fibula, same on both sides.

"Circumference of the left leg, one inch less in calf than that of right.

"Circumference above knee, equal.

"The distance from the external malleolus to the ground is increased, and that from the internal to the ground slightly diminished. This causes the foot to be turned inwards, so that in the erect position the left side of the sole of the foot reaches the ground, while the inner side is raised about an inch. This is more marked at the toe than at the heel.

"There is a marked prominence of bony character in front and to the outer side of the ankle-joint. This is clearly the head of the astragalus. The body of the astragalus can be felt distinctly behind this, somewhat in front, and to the outer side of its normal position.

"The patient complains of pain on pressure over this part, and also at the inner side of the foot below the malleolus. (ankle).

"There is but little thickening of the soft parts.

"No other injuries are present.

"Conclusions:

"(1) There has been, and still is, a dislocation of the astragalus, forwards and outwards.

"(2) There is no sign at present of there ever having been fracture either of the tibia or fibula.

"(3) Result: The pain will, perhaps, become less on using the foot, and the displaced parts will gradually become accustomed to their altered relations, but the deformity resulting from the dislocation will be permanent.

"(Sgd.)

"GEORGE A. PETERS, M.B., F.R.C.S., ENG."

The question, then, for trial is whether the condition of the plaintiff to-day is due to the want of care and skill of the defendants; or (2) whether the plaintiff's own want of care has resulted in the injury, or whether she has by her own conduct