

care the child was, of the danger of deformity resulting from any interference with the bandaging and other appliances.

The plaintiffs lived a considerable distance from Napanee, the residence of the defendant, and travelling at this time was difficult, owing to the poor condition of the roads. The plaintiffs were poor people, and could only afford to pay very small remuneration. Up to this time the defendant had only received \$5 on account of his services, and later on \$5 more in full of his charges, and he looked upon the case as practically a charity case; though this can make no difference in his liability.

There was a telephone in the village, to which the father and mother and other members of the family had easy access; and the defendant came to the conclusion that the leg was so well bandaged in the splints, and that the mother so thoroughly understood the necessity for leaving it quite undisturbed, that further visits were not necessary. He, consequently, gave instructions that, if anything went wrong, he was to be called from Napanee by telephone, and he stated that there was no necessity for frequent visits.

There is a good deal of confusion upon the evidence as to what took place next. The defendant has no detailed record of the case to aid his memory. The mother is most positive in her statements, but I do not think she can be relied upon. She fixes the date of the next visit as being the 31st December, and says that upon that day the defendant stated that he would come in about a week and remove the splints. The defendant has no recollection of this visit, and places his next visit as being on the 7th January. The mother says that on the 5th January, a Friday, the doctor came and removed the splints, and that the limb was then found to be crooked, and in bad shape; that the doctor made light of the condition of the limb, and declared it was all right and would be a useful limb, and that the shortening was very trifling. The defendant denies this visit entirely.

It is common ground that on the 6th January, Saturday, the father called upon the defendant and told him that the limb was not straight, and that the mother was much dissatisfied with its condition. The defendant suggested that, if the bone had united improperly, the leg might have to be again broken. The doctor then called on the 7th, the occasion which he says was his first visit after the 22nd December. The leg was then undoubtedly in a most unsatisfactory condition. The broken bone, the part of which had been placed end to end, had slipped, the lower section had crossed over the upper section and had united at the point of crossing. The two portions of the bone were at an angle of 135 degrees.