

of said committee, subject to the approval of the board of police commissioners."

E. F. B. Johnston, K.C., and R. McKay, for plaintiff.

A. B. Aylesworth, K.C., and D. T. Symons, for defendants.

MACMAHON, J.:—Plaintiff joined the Toronto police force on 8th July, 1889, and remained there until 1st September, 1903, a period of 14 years and 2 months, when he was struck off the strength of the force.

Plaintiff injured his right foot on 19th January, 1899, at the gymnasium, while vaulting over a wooden horse, this being part of a manual exercise prescribed by an inspector in the police force, and unquestionably the injury he then received was while engaged in the execution of his duty as a policeman.

The allegation is that the injury then received resulted in his being permanently incapacitated from further service in the force. . . .

[Examination of the testimony of witnesses.]

In March, 1903, plaintiff was at Dr. McMaster's surgery, when the Roentgen ray was applied to the foot, and skiagraphs produced shewing the metatarsals. On that occasion, besides Dr. McMaster, Drs. Bingham, Powell, and Edy were present and examined the foot, and, with the exception of Dr. McMaster, all were called as witnesses for defendants. The consensus of their opinion was, that the then condition of the foot was not attributable to the accident of 4 years before, of which they were told. They said that the examination of the foot shewed . . . that there had been a breaking down of the arch—a condition stated to be frequently found in postmen, policemen, and nurses. They concluded that plaintiff was suffering from Morton's disease, which is caused by inflammation arising from a pressure or pinching of the metatarsal nerve, caused, they thought, by a breaking down of the arch of the foot.

Mr. Irving Cameron (the eminent surgeon) was called as a witness, and said that from the history of the case, as given by the physicians attending plaintiff after the accident, his ability to resume duty a few days after it occurred, and his continuance on duty with but slight intermissions