

AN IMPORTANT MALPRACTICE DECISION.

WE have much pleasure in submitting to our readers the able judgment of Justice Falconbridge on the case of *Town v. Drs. D. and A. Archer*. This is, perhaps, the most exhaustive and important medico-legal decision that has ever been handed out in this country. We trust it may be of much service in settling the questions of what a medical practitioner is supposed to know and do. We commend its careful perusal to our readers.

Editor LANCET.

IN THE HIGH COURT OF JUSTICE.

TOWN v. D. ARCHER AND R. ARCHER.

Tried at Toronto non-jury Sittings.

N. F. Paterson, K.C., and Sharpe, for plaintiff.

Aylesworth, K.C., J. H. Moss and W. H. Harris, for defendants.

Judgment delivered by Hon. W. G. Falconbridge, Chief Justice of the King's Bench, Province of Ontario.

This is an action brought by the plaintiff, who is the wife of a farmer residing in the County of Ontario, against the defendants, who are physicians and surgeons residing and practising, in partnership, at the Village of Port Perry, in the same county.

In the month of May, 1899, the plaintiff fell and sustained injuries in her left ankle and foot, and the defendants were retained as surgeons, for reward in that behalf, for the purpose of treating the plaintiff for such injuries.

The plaintiff charges that the defendants negligently, improperly and unskilfully treated the plaintiff for such injuries, in consequence whereof the plaintiff has been suffering, and still suffers, pain, and her foot has become distorted and twisted so that she has been rendered permanently lame, and her health has become otherwise impaired thereby.

The defendants plead, in their statement of defence, that they are both duly registered members of the College of Physicians and Surgeons of Ontario; that the defendants were not retained to treat the plaintiff, as alleged, but that defendant D. Archer was called in after the accident to the plaintiff, as a surgeon to set the plaintiff's ankle, and, with the assistance of another surgeon, did set the same in a proper and skilful manner, and that said defendant D. Archer was thereupon discharged by the plaintiff from any further attendance in the case. They also plead that the injury complained of by plaintiff was not caused by any negligence of the defendants, or either of them, but is due solely to the negli-