instance, and the urgent request and entreaty of the patient for present relief. The case then presents the simple issue that is generally tried in such cases as far as the question of malpractice is concerned, and further puts forward the position that the treatment followed, whatever it may be considered to have been, was a treatment adopted at the instance and request of the patient herself. The principles upon which such cases depend possess nothing recondite or contradictory. The precise extent of the liability of practitioners is settled and defined in a series of English decisions, spread through the reports and presenting with every conceivable variety of circumstances, no material variation of doctrine. The rules of the French Law and of the Civil Law are the same as those adopted by the English Courts and by the Tribunals of the United States; *vide* Denizart, Guyot's Repertoire, Bell's Commentaries, Story on Bailments, and the 2 vol. of Kent's Commentaries. In a case of Leighton against Sargent, 7 vol. of Foster's New Hampshire Reports, page 460, the authorities from all these sources are conveniently referred to, and the ruling of the Court in that case laid down and enforced in an admirable manner the plain propositions of law upon which the liability of medical men was by that Court, and by all the decisions and authorities there cited, held to depend. These plain principles are adopted and followed by this Court in the present case, and are as follows:—A Physician's contract, as implied in law, is 1st. That he possesses that reasonable degree of learning, skill and experience which is ordinarily possessed by others of his profession. 2nd. That he will use reasonable and ordinary care and diligence, in the treatment of the case committed to him. 3rd. That he will use his best judgment in all cases of doubt, as to the best course of treatment. He is not responsible for want of success, unless it is proved to result from want of ordinary skill, or want of ordinary attention and care. He is not presumed to engage for extraordinary skill, or for extraordinary diligence or care. He is not responsible for errors of judgment or mere mistakes in matters of reasonable doubt and uncertainty.

Story 433, on Bailments. Tindall, C. J. Lanphier & Phipos, 8 c. & p—p. 475.

"To charge a physician or surgeon with damages on the ground of "unskilfull or negligent treatment of his patient's case it is never enough "to show that he has *not treated* his patient in that mode, nor used those "measures which, in the opinion of others, even medical men, the case "required, because such evidence tends to prove errors of judgment for "which the Defendant is not responsible, as much as for the want of reasonable care and skill for which he may be responsible. Alone it is not