

CASES OF MALPRACTICE.

RECENTLY we have had several of these cases in Ontario. We recall the following : Town vs. Drs. D. and R. Archer which was dismissed by Justice Falconbridge, Lyburner vs. Drs. Clark and Hopkins which was dismissed by Justice Ferguson, Cross vs. Dr. Shaw, in which judgment was given in favour of the defendant by Justice Boyd and the somewhat celebrated and long drawn out case of Kempffer vs. Dr. Conerty. This last was a particularly aggravating one. The circumstances were as follows :—A lad, Thomas Kempffer, fell from a tree on Sept. 11th, 1896 and sustained a Colles fracture. Dr. Conerty reduced the fracture and put the arm up in splints. When the splints were removed there was found to be some sloughing of the ball of the thumb. The parents of the lad claimed that the sloughing was due to the pressure of the splints and that therefore Dr. Conerty was to blame. Dr. Conerty claimed that the sloughing was due to the original injury and to the neglect of the parents to carry out his instructions as to treatment. The case was first set down for trial in the spring of 1898. The trial was adjourned on account of the illness of a medical witness for plaintiff. Then followed an argument at Toronto as to costs. This was decided in favour of the defendant. In the fall of the same year the case came to trial and after three days the defendant obtained a non-suit and judgment for costs. An appeal was made from this decision to the Divisional Court and the plaintiff was granted a new trial, and the defendant was saddled with the costs. An appeal was then made from this decision to the Court of Appeal. A new trial was granted, but a strong recommendation was made that the judge at the trial should take the case without a jury, and it was ordered that all costs must stand until the final disposition of the case by the trial judge. In the spring of 1901, when the case came up for trial it was postponed owing to the illness of Dr. King, a witness for the plaintiff. Again in the fall of the same year it was postponed