am decidedly of opinion that when the plaintiff went to see the defendants on the last two occasions she did not go as continuing the relation of patient and medical men, but as a person who had a grievance and who was dealing with the defendants more or less at arm's length. She had called in another doctor (Parke of Saintfield) to look at the foot, on the 13th December, 1899; and she consulted a solicitor during the same month. Consulting another surgeon, in the absence of, and without notice to or leave of the surgeon in charge, is an indication of want of confidence in the latter, and would of course be treated by him, when he came to know of it, as tantamount to a dismissal of him by the patient. I am clearly, therefore, of the opinion that the defendants can claim the benefit of the Statute and that on this ground alone the action fails.

But, as I said before, I deem it incumbent upon me to dispose of the other issues in the case.

The defendants are practising in partnership, but David Archer was the partner who was in charge of the case, and it is his alleged negligence which is in question here. But where physicians or surgeons engage in practice as partners all are liable for malpractice by any member of the firm.

Malpractice (*Mala praxis*) is bad or unskilful practice by a physician or surgeon, whereby the health of the patient is injured. Negligent malpractice means gross negligence and lack of the attention which the situation of the patient requires; as if a physician while in a state of intoxication should administer improper medicines; that is not charged here, but what is charged is ignorant malpractice, namely, a course of treatment which was calculated to do injury, which has done harm, and which a well educated and scientific surgeon ought to know was not proper in the case.

In 1697 the Court of King's Bench, (Temp. Chief Justice Holt) resolved in Doctor Groenvelt's case, which Lord Raymond reports at page 214 in the quaint language of the day, "That mala praxis is a great misdemeanour and offence at common law (whether it be for curiosity and experiment or by neglect) because it breaks the trust which the party has placed in the physician, tending directly to his destruction."

The burthen of proof is upon the plaintiff in an action of this character, to shew that there was a want of due care, skill, and diligence on the past of the defendant, and also that the injury was the result of such want of care, skill and diligence. The general rule of skill required of a medical practitioner was thus ably summed up by Chief Justice Erle, in Rich v. Pierpont, 1862, 3 F. & F., at page 40; "A medical man was certainly not answerable merely because some other practitioner