

A MALPRACTICE SUIT.—A suit for malpractice against one of the editors of this journal, Dr. Maclean, has recently been tried, and it may be of some interest to the profession. Mrs. Hayes called upon Professor Maclean in February, 1881, on account of a recto-vaginal fistula. She stated that she had been under the care of two most experienced physicians of Detroit for some months, and that in spite of their efforts by use of caustics, etc., her fistula still existed, and that owing to the involuntary escape of gas, etc., her life was rendered utterly unbearable. She was very anxious and very impatient to have a radical operation performed, and she was particularly desirous of having it performed by Dr. Maclean. The previous record of the case and the social standing of her husband being known to him, Dr. Maclean would gladly have avoided all relations with the family. Still, as a matter of duty, he felt bound to do what seemed necessary for the patient's relief.

On examination it was found that Mrs. H. was suffering from a recto-vaginal fistula of small size, but so completely cicatrized as to afford no hope of further closure without an operation.

The fistula was situated right on the sphincter and not more than a quarter of an inch from the verge of the anus. Not only so, but the perinæum and septum were found to be greatly reduced in thickness, so much so, in fact, that with the finger in the rectum and the thumb in the vagina, the tissue separating them *was not thicker than the one-eighth of an inch.*

The patient seemed to be in fair general health. She did not inform the Doctor of having suffered from any constitutional disease. The fistula, she stated, was the result of ulceration, consequent upon *fecal impaction*. The ulceration had destroyed the greater portion of the perineal body and the septum, leaving only the thin membrane as mentioned above.

Dr. Maclean determined to treat the case as an ordinary fistula in ano, namely, by splitting up the remnant of the perinæum and septum. In addition he determined to apply the actual cautery to the old cicatrized fistulous track, and, having done so, he expected that the wound would heal by granulation. He did not lock up the bowels, nor did he enjoin absolute rest in the horizontal position.

Before this operation was performed, the patient was informed that a subsequent operation by paring and stitching with silver sutures might be required to restore the perineal body and possibly also the sphincter ani.

The result of the operation was complete cure of the fistula. But a little notch at the surface did not heal, and the patient complained of difficulty in controlling the bowels. Consequently about four weeks later the Doctor performed a most careful and thorough operation for restoration of the perineal body and sphincter.

After this operation the patient was kept in bed, with her thighs tied together, and her bowels locked up with opiates. On or about the tenth day all the sutures were removed, and the union appeared to be *perfect* throughout the whole extent.

Before many days, however, it was found that the union had dissolved away entirely. Since then four most careful attempts have been made by two different surgeons (not by Dr. Maclean) and each time *the same phenomenon has been witnessed*.

The plaintiff's declaration set forth the following:

(1) Dr. M. did wrong in recommending or performing any operation, as the fistula would have healed of itself, and at any rate it was very small and only a matter of slight importance.

(2) The doctor did wrong in slitting up the remains of the perineal body, instead of paring and stitching the fistula.

(3) That having slit up the septum, he should have used sutures *at once*.

(4) That he should have enjoined absolute rest and locked up the bowels.

(5) That in consequence of the operation (splitting up a membrane one-eighth of an inch thick and one-quarter of an inch in depth), total loss of power of the bowels has resulted, together with prolapsus of all the pelvic viscera.

. Per contra, the defendant claimed:

(1) That this or some other operation afforded the only hope of closing the fistula.

(2) That the operation was a rational and proper one under the circumstances. (She had been married eighteen years and had never conceived, and there was no account of any tendency to prolapsus.)

(3) That as a matter of fact the patient's interests were not damaged either by the operation or the after treatment.

(4) That it is absurd and incredible that the patient's present state (admitting it to be as she avows) has resulted either directly or indirectly from the comparatively trivial operation performed. On the contrary, it is much more likely to have been caused by some constitutional condition of which the doctor had not been informed.

The plaintiff was supported by Drs. Gilchrist, Brodie and Gilmartin as experts. The first was once professor of surgery in the homœopathic department of the University, where his incompetency as a rival to Dr. Maclean was so pronounced that he was removed at the solicitation of a delegation from the Homœopathic State Medical Society. Dr. Brodie is a regu-

lar physician, but admitted on the stand that he had never treated or seen a similar case; consequently his evidence as an expert was not of much value. Dr. Gilmartin's record is rather that of a pettifogging lawyer than of a practitioner of surgery.

On the other hand, Dr. Maclean was supported by Drs. Theodore A. McGraw, H. O. Walker, D. O. Farrand and Keifer.

The jury disagreed, standing four for the plaintiff and eight for the defendant. This was a substantial victory for the defendant.

In the proper time Dr. Maclean will present all the facts of the case, and his views thereon, for the benefit of all concerned.