CARTWRIGHT, K.C., MASTER:—The above statutory provision is a re-enactment of the provision in the Patent Act.

This was judicially interpreted by the Q. B. D. affirming judgment of Boyd, C., in *Aitcheson* v. *Mann*, 9 P. R. 253, 473. It was there held that the word "may" as governed by the context of the Act was obligitory and not merely permissive (as contended now for the first time in my experience), "and that the reasonable construction of the Act was that the venue *must* be laid at the place of sittings of the Court in which the action is brought nearest to the residence or place of business of the defendant." In accordance with this decision the motion must be allowed and the venue changed to Woodstock with costs in the cause to defendant in any event.

HON. MR. JUSTICE RIDDELL. OCTOBER 14TH, 1912.

CHAMBERS.

GERBRACHT v. BINGHAM.

4 O. W. N. 117.

Trial — Jury Notice — Struck out — Action against Physician for Malpractice.

RIDDELL, J., struck out a jury notice in an action against a surgeon for malpractice holding that all such actions should be tried without a jury.

Motion for an order striking out the jury notice in an action for malpractice against a physician.

E. F. Ritchie, for the motion.

J. H. Spence, for the plaintiff.

S. G. Crowell, for the defendant Easton.

HON. MR. JUSTICE RIDDELL:—The action is for malpractice against two surgeons—the statement of claim alleges that the defendants left certain gauze within the plaintiff's body after an operation, which had to be subsequently removed, and charge negligence and want of skill. Dr. Easton, one of the defendants says that Dr. Bingham had sole charge of the operation, and that he (Easton) was not negligent; Dr. Bingham says he performed the operation with skill and in the proper manner.