

actions were tried with a jury, and also urged that the motion should be dealt with at the trial.

HIS HONOUR JUDGE ROGER:—The principle has become established that issues involving questions of negligence or of the exercise of due skill by medical men in the practice of their profession should be tried by a Judge without a jury and the same principle should be equally applicable in the case of a veterinary surgeon.

“A medical man ought not to be placed in peril with a jury when their discretion would involve the consideration of difficult questions in the region of scientific enquiry. Per Falconbridge, C.J., in *Town v. Archer* (1902), 4 O. L. R. 390.

“According to the now general rule when facts are not so much in dispute as the deductions of skilled witnesses upon the method of treatment disclosed by the facts I directed that the jury should be dispensed with.” Per Boyd, C., in *Hodgins v. Banting* (1906), 12 O. L. R. 117.

Even if it were the case that there would be but one question and that a question of fact to try in addition to the damages I should still be of opinion that such a fact should be passed by a Judge.” Per Riddell, J., in *Gerbracht v. Bingham* (1912), 23 O. W. R. 82.

So far as I can gather from the material before me this case runs along malpractice lines. Except that it involves the treatment of an animal instead of a human being. Neither in that nor in the peculiar facts of the case can I see any justification for departing from the now apparently well established practice in such cases. As the case is set down for trial before me at the regular sittings next week I would think it better for all parties that the matter should be disposed of now, and that the jury ought to be dispensed with.