a jury. In no other civil cause in Lower Canada can a trial by jury be had. In Upper Canada where the demand exceeds £25 there must as a general rule be a trial by jury. Thus it will be seen, that in Upper Canada trial by jury in civil cases is the rule, while in Lower Canada it is the exception. It is proposed by Mr. Mowat to make trial by jury in Upper Canada the exception—not the rule.

We do not think his experiment altogether undeserving of support. As he intends that *some one* of the parties *may* demand a jury, no trial without jury can be had without the assent of *all*. Those with bad cases who now prefer a jury to a judge, in the hope of mystifying, or as it is classically expressed, "bamboozling"—the former, when they would have no hope of deceiving the latter, will be able as much as ever to choose their mode of trial. Whether it is prudent to preserve this privilege to the dishonest, may hereafter be made a question, but at present had better be allowed to rest. In the main, therefore, we approve of Mr. Mowat's measure, and shall, with modifications hereafter noticed, be glad to see it take its place in the statute book. It is a pity that the learned author of it did not at an earlier period introduce the measure. Its opponents may, with some show of reason, argue that a change so radical as that which the bill contemplates should not be made at the heel of a session.

For ourselves, we are not at all satisfied but that the bill, as an experiment, goes a little too far. Mr. Mowat makes trial without jury the rule, and trial with jury the exception. This is not consistent with the preamble of his bill. The bill recites, as we have seen, that it is expedient to provide for the trial of issues of fact by the Court, without a jury, whenever all the parties to a cause *prefer* that mode of trial; that is, as we construe it, whenever the parties signify their wish to have a cause so tried. And yet the bill proposes to enact that a cause shall be tried without a jury, unless the parties signify their desire *to the contrary!* Our idea is, for the present, to continue trial by jury in civil cases as the rule, leaving to the *parties*, whenever so disposed, a right to claim the exception. Indeed we would not even extend this right to *all* cases. For example: actions for slander, crim. con., malicious arrest, malicious prosecution, and actions of a similar nature, are, we think, best triable by jury. As to such actions, the law, in our opinion, ought to remain unchanged.

Our legislators of to-day as much pride themselves in copying the institutions of "the mother country" as did the legislators of 1792. Let us then trace the amendments made in the English system of trial by jury since 1792.

The Courts in England which resemble our Division Courts are termed "County Courts." In England there are no intermediate Courts corresponding with our County Courts. The inferior c. County Courts in England have jurisdiction in all personal actions where the debt or damage claimed does not exceed £50, (13 & 14 Vic., c. 61), and by agreement of the parties to any amount, (s. 9). The judge of the County Court is the sole judge in all actions brought in his court, and determines all questions as well of fact as of law, (9 & 10 Vic., c. 95, s. 60) Where the amount claimed exceeds £5 either party may require a jury to be summoned to try the action: (s. 70). All actions not brought in the County Court are brought in one or other of the Superior Courts of Common Law; and the parties to any such action may by consent in writing leave the decision of any issue of fact to the Court; and the verdict of the judge or judges is of the same effect as the verdict of a jury, save that it cannot be questioned upon the ground of its being against the weight of evidence: (17 & 18 Vic., c. 125, s. 1.)

It is not necessary to go further to show that taking "the mother country" as our model, we may make great changes in our system of trial by jury. There is no reason under the sun why a single judge should not as well determine an ordinary question of fact as twelve tradesmen or farmers. Nay, there are many reasons for believing that the judge could do so better than any jury. Nothing but prejudice prevents men seeing and acknowledging this to be the case. Possibly the judges would rather not be called upon to discharge duties hitherto performed by jurors. On their part there may be a reluctance to do so. They may be of opinion that their duties would be in consequence increased. Should these be the views of the judges, they are not our views. It would be as easy for a judge after hearing evidence at once to determine in his own mind for or against a party litigant as to deliver a long address in order to assist twelve men less capable than himself of arriving at a just conclusion. Indeed, under the law as it stands, judges there have been and judges there are who invariably direct juries to find one way or the other according to the impression produced on the judicial mind. Of these, the most noted were Lord Ellenborough, Lord Tenterden, and Lord Abinger. Of existing judges Lord Denman is an illustrious example. These great men, free of timidity, instead of charging—if you think so and so, find for plaintiff, and if you think so and so, find for defendant—having by grasp, intellect seized the truth, rather than allow it to be smothered by the ignorance or stupidity of jurors, boldly charged in accordance with the dictates of truth and the demands of justice. We have nothing to fear on this head from the Superior Court judges of Upper Canada. Suitors wanting confidence in County judges will have it in their power to give them the go-by and summon juries. This power we have seen suitors now have in Division