is due to Mr. Mowat. He has introduced a bill, intitled "An Act respecting the trial of issues of fact by a judge in certain cases in Upper Canada," the preamble whereof recites 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."

Nothing can be more just or more reasonable than the assertion thus made. It is a maxim of law, that "*volenti non fit injuria.*" If all the parties to a cause prefer to have that cause tried without a jury surely there can be no objection. They are the parties interested in the result, and if satisfied, instead of putting themselves "upon the country," to put themselves upon the common sense, tried skill, and trained judgment of the court, though consisting of a single judge, it is not for mere speculists to interpose.

In Lower Canada, at first, trial by jury in a civil case was a thing unknown as well as unauthorized. In 1785 a provision was made, "that all and every person having suits at law, and actions in any of the courts of Common Pleas, grounded on debts, promises, contracts, and agreements of a mercantile nature only, between merchant and merchant, and trader and trader, so reputed and understood according to law, and also personal wrongs, proper to be compensated in damages, may at the option or choice of either party have and obtain the trial and verdict of a jury, as well for the assessment of damages on personal wrongs committed as the determination of matters of fact in any such cause." (25 Geo. III., c. 2, Art. 9.) In 1829, it was enacted, that "in any personal action whatever in which the remedy sought is compensation in damages interest and costs only for some wrong sustained by reason of some *delits* or *quasi delits* to moveable property only, it shall and may be lawful to and for the plaintiff and plaintiffs, defendant and defendants therein, and to and for either of them, at his, her, or their option and choice, to have and obtain the trial and verdict of a jury, as well for the determination of matters of fact as for the assessment of damages in such action, in due course of law, &c." (9 Geo. IV., c. 10), but in 1849 it was enacted, "that no trial by jury shall be allowed in any civil suit or action wherein the sum of money or value of the thing demanded or in dispute shall not exceed twenty pounds currency, &c." (12 Vic., c. 38, s. 88.) Such is now the law of Lower Canada.

In Upper Canada, as early as 1792, an act was passed reciting that trial by jury had long been established and approved in the mother country, and then enacted, that after 1st December, 1792, "all and every issue and issues of fact which shall be joined in any action, real, personal, or mixed, and brought in any of His Majesty's courts of justice, &c., shall be tried and determined by the unanimous verdict of twelve jurors duly sworn for the trial of such issue or issues, &c.," (32 Geo. III., cap. 2, s. 1.) In 1853, when the jurisdiction of Division Courts was increased to £25, it was provided that "the judge of the County Court or his deputy (acting as judge of a Division Court) shall be the sole judge to determine all actions brought in the said Division Court in the summary manner authorized by this act, and all matters and questions of fact relating thereto, unless the amount claimed shall in cases of tort or trespass exceed £2 10s., in other cases where the same shall exceed £5, and where either of the parties shall require a jury to be summoned, &c.," (13 & 14 Vic., c. 53, s. 30), and it is then enacted, that "in all actions of tort or trespass where the sum of money sought to be recovered shall exceed £2 10s., and in all other cases where the same shall exceed £5, it shall be lawful for the plaintiff or defendant to require a jury to be summoned to try the said action, &c." (s. 32). So, "in case any judge before whom a suit shall be tried in a Division Court shall think it proper to have any fact or facts controverted in the cause tried by a jury in such case a jury of five persons present shall be instantly returned by the clerk of the court to bring such fact or facts as shall seem doubtful to such judge, &c." (16 Vic., cap. 177, s. 11). This is now the law of Upper Canada.

In what respect does Mr. Mowat propose to change this law? He proposes to enact that "in every cause in the Superior Courts of Common Law, (Queen's Bench and Common Pleas), and in the County Courts, all issues shall be tried and all damages shall be assessed by the Court unless some one of the parties requires the same to be by a jury," (s. 1), and that "when a jury is not so required, any judge who might have presided at the trial or assessment of damages by a jury, shall be competent to try the cause and assess the damages; and the verdict of the judge shall have the same effect, and the proceeding upon and after the trial as to the powers of the Court or judge, the evidence or otherwise, shall be the same as in the case of trial by jury." (s. 2). The law as to juries in Division Courts is to remain intact.

Comparing the law of Lower, with that of Upper Canada, and the latter with the bill proposed by Mr. Mowat, we have the following results. Where the demand in Lower Canada is less than £20 no trial by jury can be had. Where in Upper Canada the demand exceeds £2 10s. and is less than £25 a jury may be required by either party, and if not required, the trial may be had without a jury. In Lower Canada, if the demand exceed £20, and be for a claim of a mercantile nature, or for damage to moveable property, either party to the cause may demand