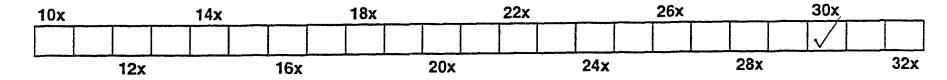
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4th Session, 3rd Parliament, 14 Victoria, 1851.

BILL.

An Act to dispense with trial by Jury, in certain cases, in Upper Canada.

Received and read a first time, Thursday, 5th June, 1851.

Second Reading, Wednesday, 11th June, 1851.

Mr. Burritt.

TORONTO: PRINTED BY LOYELL AND GIBSON.

BILL.

An Act to dispense with trial by Jury, in certain cases, in Upper Canada.

THEREAS the intervention of a Jury in certain cases Preamble. occasions unnecessary expense and delay: Be it therefore enacted, &c.

That in any cause depending in any County Court, in Damages may 5 which judgment interlocutory (not final) shall have been a Judge, in signed for want of a plea and no issue in fact remain to certain cases be tried, it shall and may be lawful for the plaintiff, after County Courts after having given notice of assessment stating time and interlocutory place, to assess damages before a Judge of such Court judgment. 10 without the intervention of a Jury: And it shall and may be lawful for the Judge at the regular sittings of the said Court, or in Chambers, or at the sittings of any Division Court, to hear and determine the same and to give a verdict thereon, and thereupon the party obtaining such verdict 15 shall be at liberty to enter judgment and proceed thereon in the same manner and at the same time he is now allowed by the law and practice of said Court.

II. And be it enacted, That in any suit depending in Notice to be the County Court in which issue shall have been joined, given by either party 20 it shall be incumbent on the plaintiff if he desire the wishing the same to be tried by a Jury to give notice to that effect in trial to be by a Jury. his notice of trial, and he shall attach a copy of such notice to his record when it is examined and passed, and if any defendant shall require a Jury to try the matter, he 25 shall give to the plaintiff, his attorney or agent, as the case may be, a written notice of such intention, three days at least before the day of trial, and shall attach a copy of

such notice to the record entered with the proper officer for trial; and if at the trial, though notice of a Jury has Parties may, 30 been given, both parties agree not to try by Jury, and at the trial, before a Jury is empannelled, they may file a written shall or sha

consent to that effect and proceed to try without a Jury; not be by a and if at the trial, and no notice of a Jury has been given notwithstandas aforesaid by either party, they may nevertheless try by ing notice or want of notice.

35 Jury, provided the parties fyle a like consent in writing.

III. And be it enacted, That in any suit depending in Suits in Q. B. the Court of Queen's Bench or Common Pleas, and or C. P. to be judgment interlocutory (not final) shall have been signed cases deterfor want of a plea, and no issue in fact remain to be tried, mined without
it shall and many hard for the control of the control o 40 it shall and may be lawful for the Judge at nisi prius to

hear and determine the same without the intervention of a Jury.

Same provision with (except as to, certain kinds of action) as by Sect. 2. with regard to a County Court.

IV. And be it enacted, That in any suit depending in the Court of Queen's Bench or Common Pleas (ejectregard to Q. the Court of Queen's Bench of Common visual lave 5 been joined, it shall be incumbent on the plaintiff, if he desire the same to be tried by a Jury, to give notice to that effect in his notice of trial, and he shall attach a copy of such notice to his record when it is examined and passed; and if any defendant shall require a Jury to try 10 the matter, he shall give to the plaintiff, his attorney or agent, as the case may be, a written notice of such intention, three days at least before the day of trial, and shall. attach a copy of such notice to the record entered with the proper officer for trial, and, if at the trial, though notice 15 of a jury has been given, both parties agree not to try by Jury and before a Jury is empanneled, they may fyle a written consent to that effect and proceed to try without a Jury; and if at the trial, and no notice of a Jury has been given as aforesaid by either party, they may never- 20 theless try by a Jury, provided the parties fyle a like consent in writing.

Fees of Clerk of assize when there is no Jury.

V. Provided nevertheless, and be it enacted, That in all cases disposed of without the intervention of a Jury, the Clerk of Assize shall only be entitled to receive one shilt 25. ling and three pence for receiving and fyling the record, and two shillings and six pence for recording the verdict