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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 LOVELL AND GIBSON.

BILL.

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

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

That in any cause depending in any County Court, in which judgment interlocutory (not final) shall have been signed for want of a plea and no issue in fact remain to be tried, it shall and may be lawful for the plaintiff, after having given notice of assessment stating time and place, to assess damages before a Judge of such Court 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 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. Damages may be assessed by a Judge, in certain cases in the County Courts after interlocutory judgment.

II. And be it enacted, That in any suit depending in the County Court in which issue shall have 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 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 of a Jury has been given, both parties agree not to try by Jury, and before a Jury is empanelled, they may file 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 nevertheless try by Jury, provided the parties file a like consent in writing. Notice to be given by either party wishing the trial to be by a Jury.

III. And be it enacted, That in any suit depending in the Court of Queen's Bench or Common Pleas, and judgment interlocutory (not final) shall have been signed for want of a plea, and no issue in fact remain to be tried, it shall and may be lawful for the Judge at *nisi prius* to Parties may, at the trial, agree that it shall or shall not be by a Jury,—notwithstanding notice or want of notice.

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

Same provision with regard to Q. B.—and C. P. (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 (ejectment, dower and libel excepted) in which issue shall have 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 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 of a jury has been given, both parties agree not to try by Jury and before a Jury is empaneled, 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 nevertheless 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 shilling and three pence* for receiving and fyling the record, and *two shillings and six pence* for recording the verdict.