

No. 182.

1st Session, 6th Parliament, 21 Victoria, 1858.

BILL.

An Act respecting the trial of issues of fact
by a Judge in certain cases.

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MR. MOWAT.

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**An Act respecting the trial of issues of fact by a Judge,
in certain cases, in Upper Canada.**

WHEREAS 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: Therefore Her Majesty, &c., enacts as follows:— Preamble.

- 5 I. In every cause in the Superior Courts of Common Law, 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. Trial to be by Judge when all parties desire same.
- 10 II. 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 proceedings upon and after the trial as to the power of the Court or Judge, the evidence or otherwise, shall be the same as in the case of trial by Jury. What Judges may try; and effect of the decision.
- 15 III. In case any of the parties desires to have the issues tried, or damages assessed (as the case may be), by a Jury, and gives notice thereof to the opposite party, at any stage of the cause (but not later than the fourth day after the service of Notice of Trial or Assessment), the same shall be by Jury as hitherto. Any party by giving notice entitled to Jury trial.
- 20 IV. The three hundred and thirteenth and three hundred and fourteenth sections of the Common Law Procedure Act, 1856, and the ninth section of the County Courts' Amendment Act, 1857, shall be deemed incorporated with this Act, as if the provisions therein contained had been repeated in this Act and expressly made to apply thereto. Power to regulate practice as under Common Law Procedure Act.
- 25 V. This Act applies to Upper Canada only.