endorser it must be presented on the day it falls due. As against the maker it may be presented at any time before action brought, but presentment at some time before the commencement of the action must be proved or the action fails.

The provision as to costs means, according to these cases, that if the maker succeeds, on the ground that no presentment is proved, the Court may deprive him of the costs usually given to a successful suitor. Russell, on Bills of Exchange (Can. 1909), p. 299, calls this explanation of the provision as to costs "ingenious, but far-fetched." Falconbridge, as to this says (page 792): "One may perhaps agree with him in regard to this remark and yet find it difficult to believe that the Legislature has effected an important change in the law by the insertion of words of such profound obscurity. It is not easy to see why the Legislature did not express itself more clearly if it intended to do away with the necessity for the presentment which is so clearly directed in sub-sec. 1. On the whole it is as easy to accept the explanation above indicated as to the costs as it is to reconcile sub-sec. 1 with the view that the maker may be sued, although no presentment before action takes place."

A different view of the meaning of the section has been taken in some of the cases.

In *Merchants Bank* v. *Henderson*, 28 O.R. 360, a note payable at a particular place was not presented for payment until some time after its maturity, and a few days before action brought against the maker. A judgment for the plaintiff with costs was affirmed by a Divisional Court with costs, on the ground that it was the maker's duty to have the money to meet the note at the particular place and to keep it there from the maturity of the note until presentment. Armour, C.J., at p. 364, pointed out what the law was in England prior to the passing of the Act, and that in Ontario, by virtue of the Upper Canada statute, 7 Wm. IV. ch. 5, a note payable at a particular place without further expression in that respect was to be deemed and taken as a promise to pay generally. At p. 365, he expressed the opinion that, under the present Act an action might have been brought against the maker without any presentment at the particular place, the plaintiff, in such case running the risk of having to pay the costs of the action in case the maker should shew that he had the money at the particular place to answer the note at maturity, and thereafter. "But," he added, "it may be that the effect of this provision is that as far as the maker of such a promissory note is concerned, the promissory note is to be deemed and taken to be a promise by him to pay generally; but it is unnecessary to determine the effect of this provision in determining this case." This *obiter dictum* of Armour, C.J., was adopted by Riddell, J., in *Freeman* v. *Canadian Guardian Life Ins. Co.*, 17 O.L.R. 296, at 302.

With a similar result, in *Sinclair* v. *Deacon*, 7 E.L.R. 222, the judgment of the Supreme Court of Prince Edward Island was delivered by Fitzgerald, J., who gives an interesting analysis of the section, and construes it as follows, at 224: "You must present the note at the par-