

of the witness or witnesses taken pursuant thereto shall be returned to the Clerk of the proper Division Court with an affidavit of the due taking thereof thereto annexed, sworn before and certified by the Mayor or Chief Magistrate of the City or place where the same shall or may be taken close under the hand and seal, or hands and seals of one or more of such Commissioners, and so returned shall be taken *prima facie* to have been duly executed and returned, and shall be received and used as evidence in the said cause at the trial: Provided always, that such last named examination or examinations shall not be read or given in evidence in the said cause in case the witnesses so examined respectively shall be living within Upper Canada, and of sound mind, memory and understanding at the time of such trial, or provided it is made to appear to the Judge at such trial, that the same have not been duly taken.

Costs of commission to be in discretion of presiding judge.

II. The costs of the said Commissions and examinations respectively mentioned in the preceding section and authorized as therein, shall be wholly in the discretion of the presiding Judge at the trial, as well as regards the taxation and allowance as costs in the cause or any part thereof, as regards the amount to be allowed for each service in detail or otherwise, and which costs he may order to be paid by either party, whatever the result of the cause may be as regards the matter in litigation.

By mutual agreement between plaintiff and defendant any Division Court Judge may decide in cases not exceeding £50.

III. If parties between whom differences have arisen shall agree by memorandum signed by them in presence of any Clerk of a Division Court or that the Judge of any particular Division Court to be named in such memorandum shall have power to hear and determine their cause of action, claims and demands, the Judge acting and presiding over such Division Court shall have power and jurisdiction so to do; Provided the subject matter of difference shall be upon a cause or causes of action not exceeding *Fifty pounds* in amount, and shall not be within the subjects excepted from the jurisdiction of the Division Courts by the first section of the Upper Canada Division Courts Extension Act of 1853; And every such memorandum shall be filed with the Clerk of the Court in which the case is to be heard; and it shall confer upon the said Court jurisdiction, power and authority to hear and determine the matter so referred; and upon such memorandum being filed, the plaintiff may enter his claim, and sue out a summons thereon, as in ordinary cases; And the proceedings in such suit may be conducted and continued to judgment and execution, irrespective of the amount claimed and recovered, so as the same do not exceed *Fifty pounds*, in the same manner as other suits cognizable in a Division Court may be conducted and continued under the provisions of the Upper Canada Division Courts Acts; and the Judgments in such suits shall have the same force and effect in all respects as any other judgment of the Court.

Proceedings in such cases.

Personal service of original summonses not necessary in cases under £10.

IV. And in amendment of the proviso in the 24th section of the Upper Canada Division Courts Act of 1850; Be it enacted as follows: Personal service of original, alias, or pluries summonses, shall not be necessary in any case where the amount claimed shall not exceed *Ten pounds*.

3 W. IV., cap. 70, to extend to Division Courts.

V. The first section of the Act of the Parliament of Upper Canada passed in the third year of the reign of King William the Fourth,