

special circumstances require it.

the special circumstances of the case shall in the opinion of such Court or Judge appear to require the same, upon such terms and conditions and subject to such directions as to such Court or Judge shall seem right; Provided the application for such reference be made within twelve calendar months after payment.

Proviso.

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Taxing Officer may require the assistance of an officer of any other Court.

XXIII. And be it enacted, That in all cases in which such Bill shall have been referred to be taxed and settled, the Officer to whom such reference is made shall be at liberty to request the proper Officer of any other Court having such an Officer to assist him in taxing and settling any part of such Bill, and such Officer so requested shall thereupon proceed to tax and settle the same, and shall have the same powers, and may receive the same fees in respect thereof, as upon a reference to him by the Court of which he is such Officer, and shall return the same, with his opinion thereon, to the Officer who shall have so requested him to tax and settle the same.

Fees.

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Applications how entitled.

XXIV. And be it enacted, That all applications made under the foregoing provisions to refer any such Bill as aforesaid to be taxed or settled, and for the delivery of such Bill, and for the delivering up of deeds, documents, and papers, shall be made in the matter of such Attorney or Solicitor; and upon the taxation and settlement of any such Bill, the certificate of the Officer by whom such Bill shall be taxed shall (unless set aside or altered by Order of a Judge, Decree or Rule of Court,) be final and conclusive as to the amount thereof, and payment of the amount certified to be due and directed to be paid may be enforced according to the course of the Court in which such reference shall be made.

Certificate of taxing officer to be conclusive unless set aside.

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Plaintiff in trespass, or trespass on the case recovering less than £2, not entitled to recover costs: unless the Judge, &c., shall certify certain particulars.

XXV. And be it enacted, That if the Plaintiff in any action of Trespass, or of trespass on the case, brought or to be brought in any of the Superior Courts of Common Law, or in any County Court in Upper Canada, shall recover by the verdict of a Jury less damages than forty shillings, such Plaintiff shall not be entitled to recover or obtain from the Defendant, in respect of such verdict, any costs whatever, whether it shall be given upon any issue or issues tried, or judgment shall have passed by default, unless the Judge or Presiding Officer before whom such verdict shall be obtained, shall immediately afterwards certify on the back of the record, or on the writ of trial, that the action was really brought to try a right besides the mere right to recover damages for the trespass or grievance for which the action shall have been brought, or that the trespass or grievance in respect of which the action was brought was wilful and malicious; Provided always, and be it enacted, That nothing herein contained shall extend or be construed to extend to deprive the Plaintiff of costs in any action or actions brought for a trespass or

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Proviso: section not to extend to trespasses of certain kinds.