

to determine upon and award the amount of damages (if any) to be paid to such person or persons as aforesaid, and their award shall be binding on such person or persons, and on the said Corporation respectively, so as such award be made in writing within three calendar months after the appointment of the third arbitrator as aforesaid : Provided always nevertheless, firstly, that every such submission and award shall be subject to the jurisdiction of Her Majesty's Court of Queen's Bench for Upper Canada, in the same manner and to the same extent for all purposes whatsoever, as if there had been a submission of the matters in difference by bond between the parties containing an agreement that such submission should be made a rule of that Court : And provided also, secondly, that if the Head of such Corporation shall neglect to appoint an arbitrator for the Corporation within such time as aforesaid, or the said two first mentioned arbitrators shall be unable to agree, or shall not agree upon and appoint a third as aforesaid, or the said three arbitrators, or the majority of them, shall be unable to agree, or shall not agree upon an award within the time aforesaid, then and in every such case, it shall and may be lawful for such person or persons, so interested as aforesaid, to institute a special action on the case at law against the Municipal Corporation by which such By-law shall have been passed, and such action shall be sustainable, whether any entry shall be made under such By-law or not, or whether any use shall be made of such property under such By-law or not, and if no such entry or use other than for the purposes of survey shall be proved at the trial of any such action, then the Judge who shall try the same shall certify the want of such proof upon the record, and in such case it shall and may be lawful for such Municipal Corporation, at any time after such trial, and until four calendar months after the rendering judgment upon such verdict, to repeal such By-law, and to tender and pay to the Plaintiff in such action, or to the Plaintiff's Attorney, the taxed costs of the said Plaintiff in such action, and from and after such tender or payment, the Municipal Corporation against whom such action shall be brought, shall be discharged from the damages which shall be assessed in such action, and the land or other real property which shall be proposed to be taken by any such first mentioned By-law, shall be and remain as if no such By-law had been passed ; and no entry or other use of such land or real property, for the purposes of such first mentioned By-law, shall be lawful after the assessment of such damages by the Jury, until the amount of the damages assessed,

pensation if any.

Proviso : Awards subject to Court of Q. B.

Proviso : in case of neglect of Head of Corporation to appoint arbitrator, &c., party interested may sue Corporation, &c.

Action sustainable without proving entry.

By-law may then be repealed, and costs tendered, &c.

No entry allowed until damages and costs be paid.