tion. It appeared that plaintiff was by by-law of December, 1884, appointed medical health officer of the township, under 47 Vict. c. 38, s. 20, but the by-law fixed no salary, as might have been done under that section.

Held, that the law would fix the salary at a reasonable sum, regard being had to the services to be performed and performed by the plaintiff, and the plaintiff was entitled to a reference to the Master to fix the amount.

The local Board of Health had been appointed under by-law of January 19th, 1885, which named three individuals as the Board. It did not, however, state that they were ratepayers, as required by 47 Vict. c. 38, s. 12 ss. 2, nor did it mention the officers which the said sub-section makes *ex officio* members of the Board.

Held, that at all events where the question arose, not on a motion to quash the by-law, but incidentally as here, the by-law should not be held invalid for these reasons.

W. Cassels, Q.C., and *Lynch*, for the plaintiff.

Osler, Q.C., and *Caldwell*, for the defendant.

Ferguson, J.] [December 15, 1885.

DEMOREST v. THE GRAND JUNCTION R. W. CO. ET AL.

Arbitration—Compensation for land taken for R. W. Co.—Issue pleadings.

D. brought an action to compel a R. W. Co. to arbitrate, to ascertain the value of certain land taken for the purposes of the R. W. Co., and after the service of the writ, the Co. served a notice to arbitrate, and after arbitration an award was made by two of the arbitrators, but was subsequently set aside by the Court, as invalid. D. then proceeded with his action, and the R. W. Co. pleaded that the arbitrators fixed a time for the making of the award, but did not make any within the time limited, and did not enlarge the time, and that, therefore, the sum of $400 offered by the R. W. Co. before proceedings taken was the correct amount of the compensation.

The learned judge found on the evidence that no time had been fixed, and that this was a different case from one in which the time had been fixed, but no award had been made within the fixed time, and

Held, that as the partners by these pleadings placed themselves upon an issue, as to whether the arbitrators had fixed a time or not, and as that issue was found in favour of the plaintiff, the sum of $400 offered had not become the compensation to be paid and a reference back was ordered.

Cassels, Q.C., and *Skinner*, for plaintiff.

Bell, Q.C., and *Biggar*, for defendants.

Boyd, C.] [Dec. 8, 1885.

ELIZABETHTOWN v. BROCKVILLE.

Public Health Act, 1882—*Small-pox hospital—Adjoining municipalities—45 Vict. c. 29.*

Held, on motion for interim injunction, that under 45 Vict. c. 29 s. 12 no hospital can be placed by one municipality within the limits of another municipality, without first obtaining the consent of the latter to that step, and an injunction must go restraining the defendants from using a certain building rented by them within the plaintiffs' municipality as a small-pox hospital.

H. J. Scott, Q.C., for the plaintiffs.

C. Moss, Q.C., and *Reynolds*, for the defendants.

PRACTICE.

Rose, J.] [July 8, 1885.
Q. B. Div.] [December 2.

COCHRANE MANUFACTURING CO. v. LAMON.

Capias — Judgment — Special bail — Appearance — Statement of claim.

The plaintiffs issued a writ of capias irregular and contradictory in its provisions. It purported to be issued in a pending action in which judgment had been recovered, and claimed the amount of the judgment and further costs. It required the defendant to put in special bail, which by its recognizance meant an undertaking by sureties to pay the condemnation money in which the defendant "shall be condemned in this action." The claim endorsed upon the writ and the requirement as to special bail were alone applicable to a pending action on the judgment. The bail to the sheriff undertook that special bail would be put in, and special bail was put in.

Held, that the defendant and his sureties had, by putting in special bail, treated the writ as one