

afterwards  
found to be-  
long to his  
neighbour.

ing to this Act, in Upper Canada shall be found, in consequence of unskilful survey, to have improved on lands not his, her or their own, it shall and may be lawful for the Judge of Assize before whom such action shall have 5 been tried, to direct the Jury to assess such damages for the defendant or defendants for any loss he, she or they may sustain in consequence of any improvement made before 10 the commencement of such action, and also to assess the value of the land to be recovered; and if a verdict shall be found for the plaintiff or plaintiffs, no writ of possession shall issue until such plaintiff or plain- 15 tiffs shall have tendered or paid the amount of such damages as aforesaid, or shall have offered to release the said land to the defendant, provided the said defendant should pay or tender to the plaintiff the value of 20 the land so assessed, before the fourth day of the ensuing term.

Plaintiff not to  
have costs in  
such cases  
from the time  
defendant of-  
fers to give up  
the lands on  
receiving the  
value of his  
improvements,  
stating the  
amount. U. C.

L. And be it enacted, That from and after the passing of this Act, in all cases in which the Jury before whom any action of ejection shall be tried in Upper Canada, 25 shall assess damages for the defendant as provided in the next preceding section, for improvements made upon land not his own, in consequence of unskilful survey, and when it shall be satisfactorily made 30 to appear that the defendant does not contest the plaintiff's action for any other purpose than to obtain the value of the improvements made upon the land pre- 35 vious to the alteration and establishing of the lines according to law, it shall and may be lawful for the Judge before whom such action shall be tried, to certify such fact upon the record, and thereupon the defendant shall be entitled to the costs 40 of the defence, in the same manner as if the plaintiff had been non-suited on the trial, or a verdict rendered for the defendant; provided the defendant shall, at the time 45 of entering into the consent rule, have

Unless the  
Jury shall as-  
sess the im-