

returned a verdict for the defendant, which at once fully justified the conduct of Col. By. It cannot be supposed for a moment, that Col. By had a wish to injure Sparks, or that Sparks, originally, had any design of throwing obstacles in the way of Col. By; for in 1826 he voluntarily offered as much land as might be necessary for the bed of the Canal, without any expectation or wish for remuneration.— This appeared from an authentic copy of a document produced in Court. Col. By's opinion of Sparks was, that he had been uniformly civil and willing to assist the work in every way that lay in his power, but that the rapid increase of his property in value, in consequence of the Rideau Canal, passing through it, had made him exorbitant in his demands, so much so, as totally to put it out of the power of Col. By to come to any amicable arrangement with him, and he surely was preposterously so, when it was proved, that he had only paid £85 originally for the whole premises & now demanded a remuneration for what had been appropriated by Government (100 acres) at the rate of £600 per acre! By the issue of this trial he has incurred a very heavy expence for law proceedings, and is obliged to submit to the mode of adjustment pointed out by the Act, which Col. By had repeatedly offered to him and recommended him to avail himself of—but which he as repeatedly refused, and declared that he would come to no arrangement, unless the Government paid him at the exorbitant rate above mentioned. In reviewing the circumstances of this action, one is forced to regret, that persons should ever be found, so over-reaching, litigious, and imprudent, as to advance claims, the issue of which is always doubtful, and in most cases altogether hopeless, as instanced by the result of this.

I have first detailed the above case, because it is the most simple which has occurred, and contains the most clear, and explicit decision of the Court, on the subject of the powers vested in the Commanding Engineer, by the Act, in regard to his appropriation of lands for the service of the Rideau Canal. The case which follows, is more complicated, because the Plaintiff, in addition to his being the possessor of the land, was also, a Contractor, entrusted with the execution of the works at Smith's Falls. He failed in the performance of his contract, which was subsequently let to another individual; and this case further involves the question, of the right of the Commanding Officer, to the appropriation of materials necessary for the service, which may be found, or obtained from lands lying contiguous to, or at a distance from the works, and also as to his right to remove houses or any other matter or thing, which he may find an obstacle in the way, of the proper completion of the Canal

In the Kings Bench, Trinity Term,
2nd., WILLIAM IV.

James Simpson, Plaintiff,

vs

Lieut. H. Pooley, & J. Shaw, }
Defendants,

This was an action brought to recover damages, for a trespass said to have been committed by the Defendants, who were acting in obedience to the orders of their Commanding Offi-