

ferences, for the sale by auction at the City of Ottawa, as building lots of a portion of the said 90 acres of superfluous lands so taken and vested but not required nor used for the Canal purposes, but retained in the possession of the Crown as aforesaid : and on the 16th of March following, portions of the said 90 acres were sold for the benefit of Her Majesty in pursuance of the said advertisement, notwithstanding the Caveat and protest, whereof copy is herewith for reference, by and on behalf of the Suppliant, against the said sale of the said lands, the said advertisement and sale to all intents declaring that the said lands were not wanted by
 10 the Crown for the Canal purposes for which they were taken and vested in the Crown, thereby in effect and absolutely determining the vested interest of the Crown in the said 90 acres, which thereupon and by law became an estate in possession to the said Suppliant.

10th. The Statutes having reference to the Canal undertaking shew, that only *so much of the lands set apart under the Rideau Act for Canal purposes and so vested in the Crown for such purposes, as should be ascertained and found to be necessary for the Canal and its works*, should be taken and surrendered and used therefor, which, with the lands damaged by having been cut through or built upon or injured by the Canal, be-
 20 came subjects of valuation or compensation, to be found by a jury if necessary, and to be paid from Imperial funds, the claims for which were required by the Canal Act to be made before the completion of the Canal, afterwards extended by the amending Canal Act of 1836, *G.W.* 4, ch. 16, U. C., and further by the Act of 1839, 2 Vic., ch. 19, U. C., to 1st April, 1841, when the said valuations and compensations having become
 30 personalty by law, were barred absolutely after that date.

11th. No provision was made in those Statutes nor otherwise either by the Imperial or Provincial Legislatures for the acquisition or the payment by the Crown of the 90 acres so taken and vested but not
 30 necessary nor used for Canal purposes, and which by non-user thereof were outside of the operation and application of the said Statutes, the requirements for the canal purposes in so far as respected the said 110 acres having been exhausted under the Canal Act by the user of the said 20 acres only, therefore such provision was one of those cases which the law does not suppose, and therefore makes no provision for them, and specially, as in this matter, the land requirements for the Canal being supplied from those parts of the set out and vested lands which were actually taken and used therefor ; and therefore any compulsory taking of private lands, superfluous to the requirements and
 40 necessities of this work of public utility, the Rideau Canal, would have been a taking by the Crown *in invitum* as a mere land speculation for the profit of the Crown without legislative authority therefor and an injustice