

The Chief Justice, the presiding Judge upon this Trial, charged the Jury to the following effect: that it was clear that the Rideau Canal Act, invested the Officer intrusted with the erection of this great work, with authority to occupy such lands, as in his judgment were necessary for the purpose. Without such power, it was quite obvious, that the duties which devolved upon him, could not be performed, and it was fair to put such a construction upon the Act, as to allow Col. By, every reasonable latitude, in providing against difficulties, that might occur from not occupying in the first instance a sufficient quantity of ground: that in the case before the Court, when witnesses of professional character, and high standing in society, were of opinion, that the land was necessary for the purposes of the Canal, it was reasonable to presume, that Col. By took possession of the land, in the exercise of that discretionary power, with which he was invested, that if he had not exercised reasonable foresight, he would undoubtedly have proved himself totally unworthy of the confidence the Government had placed in him: that the Act, expressly states, for the transport of Naval and military stores, to facilitate the defence of the Province, and to promote its agricultural and commercial interests. That if Sparks, had benefited so much by the Canal, he cannot have suffered injury; and, that, if after Col. By's plan had been submitted to, and acquiesced in, by Government, it were to allow him to become a sufferer, it would be a breach of faith, and no Jury could give a verdict, in opposition to the plain meaning of an Act of the Legislature. The Jury being thus charged, and the evidence summed up, they retired for a few minutes, and