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t, to recover entered upon, e property of e of and under e land in dise part of the mediately, by d sent to Mr. session of by and so taken The Plains en than was proved to be Act already is property, disposed of ent used on (upwards of be proved to any one of fthis, it was priated to a e therefore f & £10,000, selling the proved to nford Comn question the eight ed for the formed in President al, after it er, and who sinccessaevidence facknowlther provwing been of a child

of one of the overseers of works, and as the place was a complete wilderness at the time, the father of the child, asked Col. By, where it might be buried, the reply was, in any convenient place ; no particular spot having as yet heen appropriated for such a purpose, by any religious denomination. The spot alluded to, was pitched upon & recommended by the Clerk of works ; others were buried there after wards, and Col. By, out of humane consideration to the relatives of the deceased, ordered the place to be fenced. It was also proved that the earth exec. ated from the Basin must in all probability, of necessity, be thrown upon the graves in the same manner as it would have been upon the same ground, had it not been temporarily so appropriated. In regard to sowing the ground with oats, no argument one way or other could be made out ; the ground when once set out for the service, becomes 1PSO FACTO, vested in the Crown, and Col. By, as the Officer and Agent of Government, could not be supposed to ask Mr. Sparks's opinion, what was to be done with it. The person who was allowed to take a crop of oats off it, was bound to lay it down in grass, in which state, it is at present. It was further proved, that Mr. Sparks, originally gave, only eighty five pounds, for the whole of the two hundred acres, the year before the Canal was commenced; and, that by the Canal passing through his property, its value had been enhanced more than ten fold, as it was shown in evidence, that he had sold, and is still selling lots from the residue left in

his possession, of one third of an acre, for more than the original price paid by him for the 200 acres. 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 benefitted 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