

moned and conducted in the manner prescribed by the sixth, seventh, and eighth sections, which decision is intended to be final and binding upon both parties. The party refusing to abide by the award of the arbitrators, paying the expences of summoning such jury,—which expences are fixed by the tenth section. Here it will be recollected that no allusion is made to a Court of Justice, the summoning of the jury, and all matters relative thereto, being committed to the management of the Sheriff of the District in which the case in dispute may occur, or his Deputy. The only appeal therefore, to a Court of Justice, must be in the case where more Land may be supposed to have been taken, than may seem absolutely necessary. If the Commanding Officer, in the appropriation of lands for the service, act wilfully wrong, the consequences must assuredly fall upon himself; but while his acts, testify to the faithful discharge of his duty, he certainly has a right to expect protection, not only from the Statute itself, but also, from the Government.

By the Third Section the land so set-apart, and ascertained to be necessary for the purposes of the Canal shall be forever thereafter vested in his Majesty, his heirs, and successors. It is therefore the plain meaning, and intention of the Act, that any person, whether the original proprietor, or not, hindering the Commanding Officer in the execution of his duty, by refusing him admittance upon his premises, or otherwise preventing him taking possession of the property, may subject himself to an action, instituted against him by the Commanding Officer, as Agent for Government, in the same manner as if he were the original proprietor of the land in question, and the individual had trespassed upon his property.

I have thus endeavoured to explain the provisions of the Act, and the powers with which it invests the Commanding Officer, and it will be seen, that he can take as much land, as he may judge necessary for making, maintaining, and using the Canal, but in case his decision may be disputed, he must be prepared to show, upon scientific principles that he has exercised a sound judgement and discretion in the appropriation, which must be corroborated by the evidence of men of talent, and experience in the construction of such works, otherwise he cannot expect that the Act will bear him out.—

Hitherto I have only spoken of the land that may be required for making maintaining & using the Canal. As a doubt has been raised whether the Commanding Officer, under the authority of the Act, can dig stone, or gravel, or cut timber, and carry away any materials, which may be necessary for the purposes of the Canal, and which are required for the construction of any works connected with it, and which in any wise may be necessary for the completion and using of it, from any person's property, where he may find such material, without the consent of the owner of the property, upon which such materials are found. To decide this question it is only necessary to refer to the second clause of the Statute already quoted, where it is expressly enacted that the Officer in charge of the works, "may bore, dig, cut, and carry away materials" &c. &c. That clause is sufficiently explicit, to protect the Commanding Officer in appropriating any materials requir-

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