

bank of the said river, and following the same on the west and south unto a certain place called Cinquack, situate near the mouth of the said river," &c. *Chart. Maryland*, s. 3. To the full extent of this call for the right bank of the Potomac, (l) Maryland has always held; and under that holding, all the islands in the river have been granted by patents issuing from the land office or under legislative enactments, or titles derived from this State; 1822, ch. 54; and the whole of the bed of the river, above tide, it is believed, has always been admitted to be rightfully parcel of the territory of Maryland. Whether the south, or the north branch should be considered as the true boundary has long been, and still is, a matter of controversy; but, before the Revolution, many patents for lands, lying between the north, and south branches, were issued by the Lord Proprietary of Maryland. *Landhold. Ass.* 173; *Proce. Conven. Maryland*, 30th October, 1776; *Resolutions* 1785, No. 1; 1795, No. 3; 1796, No. 5; 1801, No. 10; 1806, No. 10; *Foster and Elam v. Neilson*, 2 *Peters*, 307; 3 *Jefferson's Correspondence*, 347; *Votes and Proc. H. Del.* 24th January, 1824.

Hence I feel perfectly satisfied, that the Potomac, above tide. * was originally a private innavigable river; that it is now, in no other manner, and to no greater extent to be deemed **128** a navigable highway than it has been expressly so declared, or than as it forms a part of the route of the navigation formed by the Potomac Company, which alone has been declared to be a highway, common to Maryland and Virginia; that the whole of the river, to its right bank, forms a part of the territory of the State of Maryland; that the whole of it above tide is entirely within the bodies of the respective counties of Maryland lying along it; and, consequently, that its waters above tide may be taken and used by any riparian holder of land, in any manner, without prejudice to others.

The sole object of the Act incorporating The Potomac Company was to open a line of boat navigation, from the tide of the Poto-

(l) This mode of designating the sides of our long and winding rivers is much more generally accurate than that used in the Charter of Maryland, or than that of north or south, east or west, and has for its sanction the highest classical authority. The river is personified and supposed to be looking and moving towards its outlet, when its banks are on its right and left hand; and, in reference to that supposition, they are so designated accordingly. Thus Horace, speaking of the Tiber says:

"Illic dum se nimium querenti
Jactat ultorem, vagus et sinistra
Labitur ripa, Jove non probante,
uxorius amnis."—*Carm. lib. 1 od. 2.*

Gibbons says, "If we inquire into the present state of those countries, we shall find, that on the left hand of the Danube," &c. 1 *Gibbon Decl. of Rom. Emp.* 26 *Phil. Ed.* And again he says "He was deprived of the country on the right of the Tiber." 5 *Ib.* 170.