

mac, along the course of the river itself as high up as practicable. All its provisions, with the exception of only two sections, 1784, ch. 33, s. 13, 19, have relation to this object exclusively. And that private property might be in no respect capriciously dealt with, even for that great purpose, it appears, that the company, after they had once made a selection of the location of any canal or cut, forming a portion of the proposed new line of navigation, could not abandon it, and have other lands valued and condemned to them for the same purpose. If the canal, or the locks got out of repair, other land could not be taken, and condemned for making another canal, or new locks along side of the old. Because, there was one, and but one distinct provision made for any such condemnation. The power of condemnation given to this company, was not, in its nature, a continuing one, which might have been repeated at their pleasure; nor is there anything, in their Act of incorporation, which contemplates a repetition of it for any purpose whatever; when the authority, thus granted, was once exercised, the law thereby spent itself, and the power of the company, in that respect, was exhausted and gone, *The King v. The Glamorganshire Canal Company*, 12 East, 157; *S. C.* 14 Com. Law Rep. 112; *Blakemore v. The Glamorganshire Canal Navigation*, 6 Cond. Chan. Rep. 544; *Groszler v. The Corporation of Georgetown*, 6 Wheat. 593; and this intention is strongly manifested in that part of the incorporating Act, which provides for the calling of a jury to make a further assessment for any damages that should arise, which "had not been before considered and valued." 1784, ch. 33, s. 11.

129 *This power to condemn private property, is a portion of the eminent domain of the government, granted to this body politic, which should never be exercised by the government itself, but with great caution, and in cases most obviously for the public good. When, as has been justly observed in our country, the Legislature undertakes to give away what is not their own, when they attempt to take the property of one man, which he has fairly acquired, and the general law of the land protects, in order to transfer it to another, even upon a complete indemnification, it will naturally be considered an extraordinary act of legislation, which ought to be viewed with jealous eyes, examined with critical exactness, and scrutinized with all the severity of legal exposition. An act of this sort deserves no favor; to construe it liberally would be sinning against the rights of property. *Vanhome's Lessee v. Dorrance*, 2 Dall. 318. In England, it has been said that all Courts have, for obvious reasons, at all times, construed such legislative enactments most strictly. Whatever such enactments require to be done, as a condition precedent to the extraordinary right of making roads or canals over private property, has always