

laid out, were to be made to suit both objects, instead of that one only, the necessary dimensions for which are specified; that is, if upon agreement any increase in the specified dimensions of the canal to answer the additional purpose should be determined upon, an estimate of the expense was to be made; and "the just proportion of the expenses of making large canals or cuts capable of carrying such quantities of water as may be sufficient for the purposes of navigation, and also for any such water works," as the proprietors of the mill-sites might desire to erect, should be then finally ascertained. The two purposes were to be answered at once, and in the beginning by their "making large canals." How large over and above that which was declared to be sufficient for navigation alone, is not otherwise specified, than by declaring that it should be "capable of carrying such quantities of water as may be sufficient for both purposes."

Hence, it is perfectly manifest, that the Legislature had meditated upon the incompatibility of answering the two purposes, of navigation and mills, to an unlimited extent from the same canals; and had guarded against it by thus unequivocally declaring that the canal should be commensurate to both purposes. The Legislature did not leave it in the power of any proprietor of land, by withholding his consent, or refusing to enter into a reasonable agreement to prevent the corporation from making a canal of the specified dimensions for navigable purposes; for, to meet any such opposition, it is provided, that a jury may be called and his land condemned; because the new line of navigation being a highway, and dedicated to public uses, such condemnation might rightfully be made, by virtue of that eminent domain, which has been tacitly conceded to the government over all private property.

But although a great and eminent balance of good to the public has authorized the violation of private property under every mode of government in the world, *Godwin's Pol. Just. b. 3, c. 3*; yet, in such cases, even the greatest of despots has been irresistibly struck with the justice of the demand for an adequate compensation. *Tacitus Ann. b. 1, s. 75*. But the construction of mills, the enhancement of the value of private property, and the aggrandizement of individuals alone, without any view to the * public
136 good, are certainly not such causes as can alone justify the exercise of the government's power of eminent domain over the property of any one. *Vattel, b. 1, c. 20, s. 244*. And therefore it was, that no power was given by this law to have any private property condemned for the use of any mill, or to subserve the purpose of any water-works, which any individual, for his own private emolument, might be willing to associate with the canal to be constructed by The Potomac Company. The additions to the specified canal for all such purposes, were to be obtained by reasonable agreements, and in no other manner whatever, if they