

would be absurd. I admit it to be so. But it is, nevertheless, a very illustrative absurdity. It clearly shews that the phrase here used is neither to be taken literally, nor wholly without limit; but must, of necessity, be controlled by the nature of the subject spoken of. A termination exactly at the first tide to be met with among the rocks at the foot of the falls; or in the shallow tide near Bladensburg, it is confessed by all, would be injurious; and an union, by a great circuit, with the bold, deep tide which washes the left margin of the Eastern Branch, or the Potomac River, it is declared would be absurd.

There is, therefore, a large range of the tide at which this canal might be terminated that must be rejected. The tide spoken of, it is evident, is circumscribed to a given place, a pool to which the canal ought to come, and beyond which it ought not to be allowed to go. Rejecting, then, all that space of the tide of the District of Columbia, within which it would be confessedly inconvenient or absurd to fix upon as a termination for it, it will be necessary to **156** *look into the nature of the subject itself to ascertain whether there are any principles of canaling which may, at this day, be considered as the settled common law in regard to the termination of canals of this description, that indicate the point at which this canal must be terminated.

For this purpose it will be necessary to understand what it is that constitutes a port; to notice what is called improved river navigation, in contrast with proper canal navigation; and to shew where and how, by a kind of common consent, all canals of this description have been terminated. The circumstances which will be mentioned in relation to these matters, are such as are of universal notoriety; and as are always recurred to as furnishing an illustration of the causes which have always brought marine as well as canal navigation to a termination at particular places; so that the nature of the subject treated of in this law, and the principles by which it should be construed may be fully understood. Recollecting, as we proceed, that all doubtful points are decided by an application of general principles to the particular case. *Silk v. Prime*, 1 Bro. C. C. 138, n.

According to one of the most venerable of our legal authorities, a port is a place for arriving and unloading of ships and vessels. It has a city or town, called the head of the port, for receipt of mariners and merchants, and the securing and vending their goods, and victualling their ship. So that to constitute a port, it must be a place to which vessels may have easy access from sea, and where they may lie in safety: and there should be houses and suitable accommodations for mariners and merchandise as well as a harbor for ships. But it sometimes happens, that the town, or the head of the port, as it is called, is at some distance from the port itself. This, however, is always attended with great inconve-