

conducting canals of this description into the very port itself, has, in Great Britain, been practically demonstrated in the most satisfactory and conclusive manner; and become established as the settled common law of canaling.

But it may be said, that although, in Great Britain, it may be considered by all as essentially necessary, that the canal and marine navigation should be conjoined in the port itself; yet unless it shall appear, that such has been also considered in this country, as the principle upon which such a canal should be terminated, there can be no presumption, that the legislators who passed this Act of incorporation so understood the matter; or spoke of a canal the termination of which must be in a port. To shew what was the universal understanding in this country, in relation to this matter, a few instances will be sufficient.

The great Erie Canal of New York, in descending easterly, after receiving the Champlain Canal, passes close alongside of the tide of the North River, in which there is good sloop navigation, for a distance of seven miles, to Albany, where it terminates in a basin,

**163** \* from which the canal boat may hand over her cargo immediately into a sea-vessel. In extending over the west, it passes through a large artificial harbor, constructed at Black Rock, into which the canal boats, and the lake vessels may both enter and interchange cargoes, and then terminates at the port of Buffalo on Lake Erie. The Massachusetts Canal, instead of stopping at the head of tide, where the navigation is good, is carried close alongside of it, four miles further, into the harbor of Boston. The boats navigating the River Santee could only reach their great market, by passing out of it, and some distance along the sea coast. To save them from this exposure and risk, a canal was constructed from the Santee into Cooper River, so as to bring them directly into the harbor of Charleston. And speaking of the river navigation of the upper Potomac, of which the lower piece of canal constitutes a part, and was only intended to enable boats to surmount the first impassable falls, it has been said, "that the legislative impartiality, which has required the canal to enter the river, at the very head of tide, in order that Virginia may have an equal chance of becoming the depot of its commerce with Maryland, has very much injured its utility to the country at large." (q) From these examples it satisfactorily appears, that here, as in Great Britain, it has been universally understood, that canals, intended to co-operate with marine navigation, must be terminated in the very port itself, where the marine navigation, in like manner ends.

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(q) *Per Latrobe, Report of A. Gallatin, Secretary of the Treasury on Roads and Canals, 1808, page 87.*