

was originally a private innavigable river; that it is now, in no other manner, and to no greater extent to be deemed 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 Potomac, along the course of the river itself as high up as practicable. All its provisions, with the exception of only two sections, (*k*) 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 any thing, 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, (*l*) 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.' (*m*)

---

(*k*) 1784, ch. 33, s. 13, 19.—(*l*) *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.—(*m*) 1784, ch. 33, s. 11.