

The 'making large canals,' therefore, can only mean such as were to be made originally, and in the first instance. If the proprietors and the company could agree 'concerning the just proportion of the expenses,' those canals, when about to be 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 no 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 authorised the violation of private property under every mode of government in the world; (*t*) yet, in such cases, even the greatest of despots has been irresistibly struck with the justice of the demand for an adequate compensation. (*u*) But the construction of mills, the enhancement of the value of private property, and the aggrandisement of individuals alone, without any view to the pub-

---

(*t*) Godwin's Pol. Just. b. 3, c. 3.—(*u*) Tacitus Ann. b. 1, s. 75.