

lic 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. (v) 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 could be conveniently made in that way to answer both purposes, this section allowed it to be done; if not, no condemnation was to be suffered at any time, for any such purpose.

But supposing the right to condemn granted to this corporation, it must have been intended to provide for the erection of mills in connexion with the canal. Then it is evident, that both purposes must be comprehended in the original formation of those canals; and the acquisitions of the company for that purpose. The law nowhere, by any express words, or by any fair construction, authorises the company to make any new and additional acquisitions along the line of navigation formed by them, even for the purpose of that navigation; much less for mills, or any other, or additional purpose. But the erection of mills, to which the canal is made tributary, as a head race, necessarily requires the 'making large canals, capable of carrying such quantities of water as may be sufficient for both purposes;' and, consequently, if they have not originally that capacity, they must be enlarged before mills can be supplied from them.

This canal, it is admitted on all hands, has no more than the specified dimensions of the required navigable canal; and, therefore, if the plaintiff's claim is to be gratified to any extent whatever the canal must be enlarged; and its capacity for carrying an adequate additional quantity of water provided for in some way. This, I apprehend, can only be effected by additions, in one of three modes; by adding to its width, to its depth, or to its height. We have only to cast an eye over the plots filed in this case, to see, that if it is to be widened, the corporation must, for that purpose, acquire an additional breadth of land on one or on each side.