

look into the nature of the subject itself to ascertain whether there are any principles of canalling 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. (*p*)

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 ships. 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 merchandize as well as a harbour 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 inconvenience; and, therefore, in many instances, where it was practicable, the navigation has been extended at an enormous expense to the town or head of the port. (*q*) Anciently, the natural navigation of the river Ex, in England, was such, that large ships went quite up to the city of Exeter; but a malicious earl of Devon, by throwing dams across the river, entirely choked the channel, so that ships were obliged to stop four miles below, which place was, for a long time, considered as the port. But at great expense the obstructions were removed, and now ships again find