

Chesapeake and Ohio Canal; the owners of which would be greatly and unnecessarily injured by the sudden establishment of numerous rivals.

Third—that it is not expedient that the milling and manufacturing interests of Maryland should be sacrificed, her property and her population drawn off, to make of Georgetown another Rochester, and to swell the dividends of the Chesapeake and Ohio Canal Company.

A few considerations will suffice to render the first of these positions plain to the humblest faculties. Discussing (page 46) in the case of Binney against the Chesapeake and Ohio Canal company, the thirteenth section of the charter of the old Potomac company (1784, chap. 33,) the learned Chancellor of Maryland has made the following apposite and valuable remarks:—"The first condition upon which an application of water may be made to mills as well as to navigation is the consent of the proprietors.— But supposing that to be given, still there are other conditions of the most grave importance which must all be complied with before any water can be taken from these canals for mills. The company are empowered and directed to do so, if it can be conveniently done to answer both purposes. This allows to them an extent of discretion which cannot be duly appreciated, without adverting to *the consequences of making a navigable canal tributary to mills, as their head race.*"

"The application of water, as the propelling power of mills, requires that it should flow in currents, no matter how rapid, so it does not inundate the position of the mill; but *the perfection of a navigable canal is, that the water should be entirely motionless.* The one use requires quick motion, the other *stillness.* Hence the unlimited application of the same volume of water; or rather the having water conducted along a cavity to answer both purposes, is absolutely and directly incompatible."

It is easy to understand that the whole volume of water, in a canal of any given dimensions, might be drawn off so as utterly to destroy the navigation. It is also plain that no obstruction of water from a canal can be made, without in *some measure* quickening the current. An unrestricted right to sell water would constantly place the company under temptation to prejudice the navigation. It is believed that the Canal Commissioners of New York have made an indiscreet use of the states authority in the sale of water privileges; and that it is found, too late, that the profit