

tleman from Baltimore city (Mr. Cushing) upon the subject of the popular voice. I agree with the gentleman from St. Mary's, and I leave the circumstances in which this is proposed to be done where he placed it; to the facts to which he alluded in reference to the vote of Maryland at the last election.

My learned friend (Mr. Edelen) on yesterday went so thoroughly over the ground of the provisions in the bills of rights of all the States, and also the provision of the Constitution of the United States, which said that private property should not be taken for public use without compensation, that I am relieved from the necessity of referring to that subject further.

And my friend from St. Mary's (Mr. Billingsley) has been so full this morning of authorities which he submitted to show that no government has ever undertaken to exercise any such power, to inflict any such injustice upon any portion of its citizens, that I shall add but one authority to those which he read, and that is an authority going beyond the delegated powers of State Governments or Federal Governments. It is an authority that goes to the fountain head of sovereignty itself, and puts limits and restrictions upon that—the limits and restrictions of the eternal principles of justice, which no people anywhere can violate and set at naught without incurring the judgments of Him who rules over them: the God of our fathers; the God of our people; the God of our Constitution. I say that you cannot show, except under despotic governments, any exercise of this power of sovereignty, this right of eminent domain, to take private property, even of the few, for any public use, without adequate compensation being made.

And I have the pleasure to refer upon this subject to very high Massachusetts authority, to no less an authority than that of Judge Story, who bases his opinion upon authority, which is admitted upon all hands to be that of one of the most able and most eminent writers upon law, viz: that of Vattel. The case grew out of the question of the franchise of a ferry, and subsequently of a bridge, over the river between Boston and Charlestown, which cost the builders some \$300,000; and which was bringing them in a large revenue. The State of Massachusetts chartered another bridge, which subsequently fell into the hands of the State, which threw it open to the free use of all its citizens; thus taking away the revenue of the first bridge. The question was upon the power of the Legislature to do that. The decision was in favor of the State, but Judge Story, in a very elaborate dissenting opinion, states this proposition as unquestionable law:

"But, without stopping to examine into the true meaning of phrases"—

(That is "sovereignty" and "eminent domain," by which he means, as he says, the

right of the sovereign power to take private property for public use upon adequate compensation)—

"But, without stopping to examine into the true meaning of phrases, it may be proper to say, that however extensive the prerogatives and attributes of sovereignty may theoretically be, in free governments they are universally held to be restrained within some limits. Although the sovereign power in free governments may appropriate all the property, public as well as private, for public purposes, making compensation therefor; yet it has never been understood, at least never in our republic, that the sovereign power can take the private property of A and give it to B by the right of 'eminent domain;' or that it can take it at all, except for public services; or that it can take it for public purposes without the duty and responsibility of making compensation for the sacrifice of the private property of one for the good of the whole. These limitations have been held to be fundamental axioms in free governments like ours; and have accordingly received the sanction of some of our most eminent judges and jurists. Vattel himself lays them down in discussing the question of the right of eminent domain, as among the fundamental principles of government, binding even upon sovereignty itself. 'If,' says he, 'the nation itself disposes of the public property in virtue of this eminent domain, the alienation is valid, as having been made with a sufficient power when it disposes in like manner, in a case of necessity, of the possessions (the property) of a community or of an individual, the alienation will be valid for the same reason. But justice demands that this community or this individual be recompensed out of the public money; and, if the treasury is not able to pay, all the citizens are obliged to contribute to it.' Vattel, b. 1, ch. 20, s. 244. They have been incorporated into most of our State Constitutions and into that of the United States; and what is most important to the present argument, with the State Constitution of Massachusetts."

That is the law founded upon common sense; upon the plainest principles of equity and of justice.

It may be said that that applies to certain species of property; that it does not apply to slave property. Now, I challenge the production of any authority for any such distinction. Nowhere has any such distinction ever been made; that property is not only recognized by the States, not only recognized by the Constitution of the United States which carries that recognition as far as its provisions extend, but, as I have already said, it is recognized by the law of nations.

I therefore submit to gentlemen, that whatever they may choose to do, however they may set aside these principles of law and jus-