

ant had cut down valuable trees near it, the value of which ought to be deducted from the amount due to him. After this answer was filed, the trustees were made parties by amendment of the bill, and in their answer took generally the ground taken by that of the company ; some testimony was taken, relating to the value of the public house, and the terms on which it was rented, the consideration of which was deemed unnecessary by the Chancellor, under the view which he took of the case :]

**THE CHANCELLOR :**

Nothing can be clearer, than that private property cannot be taken for public use, without making just compensation to the owner. The right of eminent domain gives to legislative authority the control of private property, for public uses, but this power is subject to the condition, that a reasonable and just compensation shall be made to the owner, and any attempt to exert the power, without complying with the condition, would not only be at war with the great principles of natural justice, which lie at the foundation of the social compact, but would be in direct conflict with the constitution of the United States. It follows, therefore, irresistibly, that as the complainant has not received compensation for that portion of his property, which has, through the medium of this company, been taken from him for public use, that he is now entitled to compensation ; and this compensation is to be paid him, not in the bonds of the company, issued under the act of 1841, but in money.

The bill takes the ground, and the argument of the complainant's solicitor urged the same view of the subject, that the land condemned by the inquisition of August, 1838, was not necessary for the use of the road, and that, therefore, as to that portion of the premises, the company should be ordered by the decree of this court to deliver the possession to the complainant. I cannot bring myself to think that such a decree would be at all justifiable. The 15th section of the act of 1826, chapter 23, which so far as the mode of proceeding in the