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of nature. This is a principle which, it is conceived, will be found to have the sanction of the most revered authorities of ancient and modern times; and if there have been temporary occasions when it has been questioned, it is not known that the reasons upon which it rests, as developed in the most approved works upon public law, have ever been impugned.

"There is no sentiment more deeply and universally felt than that the ocean is free to all men, and the waters that flow into it to those whose home is upon their shores. In nearly every part of the world we find this natural right acknowledged, by laying navigable rivers open to all the inhabitants of their banks; and wherever the stream, entering the limits of another society or nation, has been interdicted to the upper inhabitants, it has been an act of *force* by a stronger against a weaker party, and condemned by the judgment of mankind. The right of the upper inhabitants to the full use of the stream rests upon the same imperious want as that of the lower—upon the same intrinsic necessity of participating in the benefits of this flowing element."

Let us now inquire into the nature of this right of sovereignty over navigable rivers passing through different countries. The *natural* law clearly points to them as highways common to the nations which dwell upon their banks. The law of nations likens them to highways, and such, it is believed, they are defined to be by the statute law of nearly all civilized countries. But the control of ordinary highways is by no means absolute in the ruling sovereignty. They are appropriated by human as well as natural laws to certain specific purposes, which are inconsistent with the unqualified right of any power to dispose of them at will. The individual, subject, or citizen, the *natural man*, possesses rights here which even the sovereignty cannot justly annul or take from him without rendering compensation. The instructions of Mr. Adams to Mr. Rush in 1823 upon this subject are so pertinent to this view, that they deserve to be quoted: "The right of navigating the river is a right of nature, preceding it in point of time, and which the sovereign right of one nation cannot annihilate, as belonging to the people of another." Upon this point, Mr. Rush pressed our claim on the British government in the very terms of his instructions.

The principle relied on points to, and springs from, the natural right of every human creature to the enjoyment of life, liberty, and happiness, and to the use of all those just means which are necessary to give effect to that right. The existing sovereignty may *regulate* the use of a highway, but it has no right, in ordinary cases, to close or destroy it, without compensating individual losses. Such avenues are for the use of the public—of the individuals composing the ruling state. The right to a highway is the right to use it, to travel in it, to pass and repass. It is created, whether artificial or natural, not so much for the accommodation of nations in their sovereign capacity, as of the individuals who dwell near them, and who, without them, could not prosecute the ordinary pursuits and occupations of civilized life. Is it not evident, then, that the sovereignty which a nation is said to possess over its highways is, substantially and for practical purposes, the right of the *individual man* to use them for those objects for which they were originally designed?

Let us now apply these views more directly to the case of navigable rivers. They are held to be highways by the courts of England and of this country, and the right of using them is likened to that of using a