The only case I can find bearing directly on this point is an American one, *Woolcot Manufacturing Co.* v. *Upham*, 5 Pick. (Mass.) R., mentioned in section 489 of Angell on Water Courses. It is there quoted thus :—"The reservoir for the use of the mill was erected more than three miles from the pond at which the mill was situated ; and it was held that the owner of the land lying between the two dams, which was overflowed by the water from the reservoir, must apply for damages in the mode provided by the statute. The Court thought it very common that two or more ponds were required for a mill, though they were not often so remote from each other as in this instance." From this it would appear that the distance of three miles between the mill and the reservoir was an unusual one. On this question of "public use" Angell says, (sect. 466,) "As a general rule it must undoubtedly rest in the discretion and wisdom of the legislature to determine when public uses require the assumption and appropriation of private property. Although the question is one not without embarrassment, as the line of demarcation between a use that is public and one that is strictly private is not to be drawn without much consideration." And the writer quotes the opinion of Shaw, C.J., in the case of the *Boston Water Power Co.* v. *Boston and Worcester Ry. Co.*, 23 Pick. (Mass.) R. 360, where he is reported as saying :—"It is difficult, perhaps impossible, to lay down any general rules that would precisely define the power of the government in the exercise of the acknowledged right of eminent domain ; it must be large and liberal so as to meet public exigencies, and it must be so limited and restrained as to secure effectually the rights of the citizen ; and it must depend in some instances upon the nature of the exigencies as they arise, and the circumstances of particular cases." And the writer adds, "One thing is incontrovertible, and that is, that the necessities of the public for the use to which the property is to be appropriated must exist as *the basis* upon which the right is founded." And in sect. 467, "Although it rests with the wisdom of the legislature to determine what is a 'public use,' and also the necessity for taking the property of an individual for that purpose, yet the right of eminent domain does not authorize the government, even for a full compensation, *to take the property of one citizen and transfer it to another* when the public is not interested in the transfer."

And here I would give expression to a certain state of doubt I am in as to the full intent and meaning of our own Act. The first section contemplates the entering of one person upon the lands of another for acquiring certain rights and privileges which are manifestly of a *private* nature ; while in the seventh section reference is specially made to the necessity of those rights and privileges being "for the public good."

The Act has been passed since the case of *Dickson* v. *Burnham*, 14 Grant, 594, where Mowat, (then V.C.,) says :—"This right of private property is made by parliament to give way, on proper terms, and with proper precaution, in order to enable railways and canals to be built, and other objects of general utility to be accomplised. And I see no reason why the legislature should not, on the same principle, make some provision of a like kind to encourage the building of mills and manufactories. Laws for this purpose were passed in several of the neighbouring Ssates when they were colonies of Great Britain, and still exist in them." On reference to those laws, as passed in the States of Maine and Massachusetts, I find no such limitation as that contained in our Act in reference to the "public good." And this ought to be borne in mind in considering any of the American cases that are made use of. I quote again from Angell, s. 487, "An opinion has been entertained by some persons that the enactment of the above statutes (*i. e.*, such as have already been referred to,) is an abuse of the right of eminent domain . . . though mills might, with propriety, have been considered public easements, and as of public convenience and necessity in the first settlement of the country."

The late Chief Justice Parker of Massachusetts, speaking of the statutory law of that State at that time, which re-enacted the old provincial Act, prior to the Revolution, says in the case of *Stowell* v. *Flagg*, 11 Mass. R. 364, "We cannot help thinking that this statute was *incautiously* copied from the ancient colonial and provincial Acts, which were passed when the use of mills, from the necessity for them, bore a much greater value compared to the land used for the purposes of agriculture, than at present." Upon this Mr. Angell remarks, "The real question is, whether authorizing the flowing of another's land is sufficiently for the public good to justify depriving the owner of the use of it, even for a